

# ARKANSAS CODE OF 1987 ANNOTATED



## 2011 SUPPLEMENT VOLUME 28A

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**TRANSPORTATION**  
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***SUBTITLE 2. MOTOR VEHICLE REGISTRATION AND  
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**CHAPTER 14**

**UNIFORM MOTOR VEHICLE ADMINISTRATION,  
CERTIFICATE OF TITLE, AND ANTITHEFT ACT**

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**SUBCHAPTER 1 — GENERAL PROVISIONS**

SECTION.

- 27-14-103. Arkansas Forestry Commis-  
sion — Exemption.

**27-14-103. Arkansas Forestry Commission — Exemption.**

(a)(1) Except as provided under subdivision (a)(2) of this section, the Arkansas Forestry Commission is exempt from the licensing and registration requirements under this subtitle for a truck, pickup truck, motor vehicle, or other vehicle of any nature that it owns, uses, and operates.

(2)(A) The State Forester and the Director of the Department of Finance and Administration shall adopt identification tags or other insignia that shall be attached to the vehicles by the officers, members, and employees of the commission.

(B) A charge shall not be made or fee collected for the identification tags or other insignia.

(b)(1) Except as provided under subdivision (b)(2) of this section, a truck, pickup truck, motor vehicle, or other vehicle of any nature owned, used, and operated by the commission is exempt from the payment of any fees and charges required by the laws of this state for the operation of the vehicles upon the public highways of this state.

(2) However, the commission shall pay the initial fees and charges required by state law to register the vehicle and enter the vehicle in the state licensing and registration system.

**History.** Acts 2011, No. 638, § 1.

**SUBCHAPTER 2 — DEFINITIONS****SECTION.**

27-14-207. Definitions.

**27-14-207. Definitions.**

As used in this chapter:

(1) “Bus” means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

(2) “Manufactured home” means a factory-built structure:

(A) Produced in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and

(B) Designed to be used as a dwelling unit;

(3) “Mobile home” means a structure:

(A) Built in a factory before the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and

(B) Designed to be used as a dwelling unit;

(4) “Motorcycle” means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, excluding a tractor;



(5) “Motor home” means a motor vehicle designed to provide temporary living quarters, built onto an integral part of, or permanently attached to, a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life-support systems;

(6) “Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

(7) “School bus” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school; and

(8) “Vehicle” means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

**History.** Acts 1949, No. 142, § 2; 1959, No. 307, § 1; 1973, No. 596, § 1; A.S.A. 1947, § 75-102; Acts 1991, No. 730, § 2; 2003, No. 1473, § 67; 2005, No. 1991, § 4; 2009, No. 317, § 1.

**Amendments.** The 2009 amendment rewrote (2) and (3).

### SUBCHAPTER 3 — PENALTIES AND ADMINISTRATIVE SANCTIONS

#### SECTION.

27-14-305. Penalty for using or making unofficial license plates.

#### SECTION.

27-14-314. Additional penalties — Disposition of fines.

### 27-14-304. Operation of vehicles without license plates.

#### CASE NOTES

**Cited:** *Stufflebeam v. Harris*, 521 F.3d 884 (8th Cir. 2008).

### 27-14-305. Penalty for using or making unofficial license plates.

(a) It shall be unlawful for the owner of any automobile, Class One truck, trailer or semitrailer, motorcycle, or motorcycle sidecar to display any license plate on the rear of the vehicle that is not furnished by the Director of the Department of Finance and Administration.

(b)(1) It shall be unlawful for any person, firm, or corporation to reproduce, paint, or alter any license plate or registration card in this state.

(2) For purposes of this section, “license plate” means any plate designed to be affixed to the rear of a motor vehicle, including without limitation:

(A) Plates advertising a new or used car dealership or other type of business;

(B) Rental car company identification plates; or

(C) Temporary cardboard buyer’s tags under § 27-14-1705.

(c) Any person, firm, or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

**History.** Acts 1929, No. 65, § 36; Pope's Dig., § 6636; Acts 1965, No. 493, § 8; A.S.A. 1947, § 75-236; Acts 2005, No. 1929, § 5; 2009, No. 186, § 1.

**Amendments.** The 2009 amendment, in (b), inserted "or alter" in (b)(1), red-

ignated (b)(2), rewrote (b)(2)(C), which read: "any plate or card with the designation 'TAG APPLIED FOR' or any similar designation," and made related and stylistic changes.

### **27-14-314. Additional penalties — Disposition of fines.**

(a)(1) A person who while driving a motor vehicle is arrested for failure to register the motor vehicle upon conviction shall be subject to a penalty in addition to any other penalty provided by law.

(2) The additional penalty shall be:

(A) Not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) for the first offense, and the minimum fine shall be mandatory; or

(B) Not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) for the second and subsequent offenses, and the minimum fine shall be mandatory.

(b)(1) If a person is convicted of two (2) offenses under subsection (a) of this section within one (1) year, the court may order that the unregistered vehicle be impounded until proof of motor vehicle registration is submitted to the court.

(2) The owner of the vehicle impounded shall be responsible for all costs of impoundment.

(c)(1) If the arresting officer is an officer of the Department of Arkansas State Police, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit into the Department of Arkansas State Police Fund to be used for the purchase and maintenance of state police vehicles.

(2) If the arresting officer is a county law enforcement officer, the fine collected shall be deposited into that county fund used for the purchase and maintenance of:

(A) The following:

- (i) Rescue, emergency medical, and law enforcement vehicles;
- (ii) Communications equipment;
- (iii) Animals owned or used by law enforcement agencies; and
- (iv) Life-saving medical apparatus; and

(B) Law enforcement apparatus to be used for the purposes set out in subdivision (c)(2)(A) of this section.

(3) If the arresting officer is a municipal law enforcement officer, the fine collected shall be deposited into that municipal fund used for the purchase and maintenance of:

(A) The following:

- (i) Rescue, emergency medical, and law enforcement vehicles;
- (ii) Communications equipment;
- (iii) Animals owned or used by law enforcement agencies; and
- (iv) Life-saving medical apparatus; and

(B) Law enforcement apparatus to be used for the purposes set out in subdivision (c)(3)(A) of this section.

**History.** Acts 2011, No. 876, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 876, § 1, provided: "The General Assembly finds:

"(1) In the 2009 Regular Session of the General Assembly, a court 'clean-up' bill concerning the payment and collection of fines, costs, and restitution inadvertently repealed Arkansas Code § 27-14-314 regarding the penalties for driving an unregistered motor vehicle;

"(2) Arkansas Code § 27-14-314 was originally enacted during the 1991 Regular Session of the General Assembly;

"(3) In Act 988 of 1991, the General Assembly found that these penalties were necessary because:

"(A) There were a large number of unlicensed motor vehicles in the state;

"(B) Unlicensed motor vehicles result in lost revenues in the form of unpaid license fees;

"(C) Owners of unlicensed motor vehicles most likely have not:

"(i) Paid property taxes on the unlicensed vehicles, depriving local govern-

ments and school districts of vitally needed revenues;

"(ii) Paid sales tax on the motor vehicles, depriving the state of significant revenues; or

"(iii) Insured the vehicle in compliance with the mandatory insurance requirements, increasing the potential financial catastrophe to others involved in accidents with them; and

"(D) Promotion of the enforcement of Arkansas's motor vehicle licensing law is necessary; and

"(4) This act is necessary for legislative correction to reinstate the penalties that were in effect until accidentally repealed in 2009 for a person who drives an unregistered motor vehicle for the same reasons the law has been needed since 1991."

**Publisher's Notes.** Former § 27-14-314, concerning additional penalties and disposition of fines, was repealed by Acts 2009, No. 633, § 21. The section was derived from Acts 1991, No. 988, § 2; 1993, No. 230, § 1; 2001, No. 1408, § 2; 2003, No. 1765, § 32.

## SUBCHAPTER 6 — REGISTRATION AND LICENSE FEES

### SECTION.

27-14-601. Fees for registration and licensing of motor vehicles.

27-14-602. Registration fees.

27-14-606. Disposition.

27-14-610. Permanent registration of a fleet of motor vehicles.

### SECTION.

27-14-611. Registration for nonprofit motor vehicle fleets.

27-14-612. Multiyear personal-use vehicle registration.

**Effective Dates.** Acts 2011, No. 718, § 4: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police is experiencing severe revenue shortages in the State Police Retirement System and that this act is neces-

sary to ensure that the State Police Retirement System continues to operate in a fiscally sound manner. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."



**27-14-601. Fees for registration and licensing of motor vehicles.**

(a) **FEES GENERALLY.** The fee for the registration and licensing of all motor vehicles shall be as follows:

(1) **PLEASURE VEHICLES.** For all automobiles equipped with pneumatic tires, used for the transportation of persons, there shall be charged and collected the following fees based upon the unladen weight of such automobiles:

(A) Class One — Automobiles of 3,000 lbs. or less ..... \$17.00;

(B) Class Two — Automobiles of 3,001 lbs. to and including 4,500 lbs. .... 25.00; and

(C) Class Three — Automobiles of 4,501 lbs. and over .... 30.00;

(2) **AUTOMOBILES FOR HIRE.** For all automobiles for hire which are equipped with pneumatic tires and used for the transportation of persons, there shall be charged and collected the fee applicable thereto as set for pleasure vehicles in subdivision (a)(1) of this section;

(3) **TRUCKS AND TRAILERS.** For all motor trucks, trailers, and semi-trailers including pipe and pole dollies, equipped with pneumatic tires, the license fee shall be charged on the basis of the gross loaded weight of the vehicle as follows:

(A) Class One — All trucks and vans that are rated by the manufacturer as having a nominal tonnage of one (1) ton that are used exclusively for personal transportation and are not used for commercial or business purposes and all trucks and vans that are rated by the manufacturer as having a nominal tonnage of three-quarter (3/4) ton or less shall be assessed a license fee of twenty-one dollars (\$21.00) without regard to weight. All one-ton trucks and vans that are used for commercial or business purposes shall be registered in the appropriate class according to gross laden weight;

(B) Class Two — On all such vehicles with a gross loaded weight between six thousand one pounds (6,001 lbs.) and twenty thousand pounds (20,000 lbs.), the fee to be charged shall be at the rate of six dollars and fifty cents (\$6.50) per thousand pounds of gross loaded weight of the vehicles;

(C) Class Three — On all such vehicles with a gross loaded weight between twenty thousand one pounds (20,001 lbs.) and forty thousand pounds (40,000 lbs.), the fee to be charged shall be at the rate of eight dollars and forty-five cents (\$8.45) per thousand pounds of the gross loaded weight of the vehicles;

(D) Class Four — On all such vehicles with a gross weight between forty thousand one pounds (40,001 lbs.) and fifty-six thousand pounds (56,000 lbs.), the fee to be charged shall be at the rate of eleven dollars and five cents (\$11.05) per thousand pounds of gross loaded weight of the vehicles;

(E) Class Five — On all such vehicles with a gross loaded weight between fifty-six thousand one pounds (56,001 lbs.) and sixty thousand pounds (60,000 lbs.), the fee to be charged shall be at the rate of twelve dollars and thirty-five cents (\$12.35) per thousand pounds of gross loaded weight of the vehicles;



(F) Class Six — On all such vehicles with a gross loaded weight between sixty thousand one pounds (60,001 lbs.) and sixty-eight thousand pounds (68,000 lbs.), the fee to be charged shall be at the rate of thirteen dollars and sixty-five cents (\$13.65) per thousand pounds of gross loaded weight of the vehicles;

(G)(i) Class Seven — On all such vehicles with a gross loaded weight between sixty-eight thousand one pounds (68,001 lbs.) and seventy-three thousand two hundred eighty pounds (73,280 lbs.), the fee to be charged shall be at the rate of fourteen dollars and thirty cents (\$14.30) per thousand pounds of gross loaded weight of the vehicles.

(ii) On all such vehicles with a gross loaded weight between seventy-three thousand, two hundred eighty-one pounds (73,281 lbs.) and eighty thousand pounds (80,000 lbs.), the fee to be charged shall be one thousand three hundred fifty dollars (\$1,350);

(H) Class Eight.

(i) In order to aid in the development of the natural resources and to promote agriculture, timber harvesting, and forestry in Arkansas and in order to eliminate apparent inequities in license charges for vehicles using only improved roads and those used primarily on the farm, for timber harvesting or forestry, in the wooded areas, and off the main highway system of this state, a special classification is created to provide a different and more equitable rate for those vehicles used exclusively for the noncommercial hauling of farm or timber products produced in this state and for the hauling of feed, seed, fertilizer, poultry litter, and other products commonly produced or used in agricultural operations or the hauling of animal feed by owners of livestock or poultry for consumption in this state by livestock or poultry owned by them and for those vehicles used in the hauling of unfinished and unprocessed forest products and clay minerals and ores originating in Arkansas from the point of severance to a point in the state at which they first undergo any processing, preparation for processing, conversion, or transformation from their natural or severed state. Notwithstanding any provision of this subdivision (a)(3)(H) to the contrary, farmers may transport cotton seed from the gin or warehouse to the first point of sale under this special classification. Rock or stone or crushed rock or crushed stone, except rock or stone which is to undergo further processing into a finished or semifinished product other than crushed rock or crushed stone, shall not be construed as clay minerals or ores under the provisions of this classification. Notwithstanding any provision of this subdivision (a)(3)(H) or any other law to the contrary, persons in the timber harvesting or forestry industries who transport wood waste, wood chips, or wood dust from a mill or a temporary location may transport the wood waste, wood chips, or wood dust from the mill or the temporary location to a destination for further processing under this special classification.

(ii) The annual license fees for vehicles classified as either farm or natural resources vehicles shall be as follows:

(a) For a vehicle with two (2) axles, including mini-trucks, a fee of three dollars and ninety cents (\$3.90) per one thousand pounds (1,000 lbs.) of gross loaded weight of the vehicle, with a minimum fee of thirty-two dollars and fifty cents (\$32.50) and a maximum fee of sixty-five dollars (\$65.00) for each vehicle;

(b) For a vehicle with three (3) axles, a fee of ninety-seven dollars and fifty cents (\$97.50);

(c) For a vehicle with four (4) axles, a fee of one hundred thirty dollars (\$130);

(d) For a vehicle with five (5) axles, a fee of one hundred sixty-two dollars and fifty cents (\$162.50);

(e) For a vehicle with five (5) axles used exclusively by the owner of livestock or poultry in hauling animal feed for consumption in this state by the owner's livestock or poultry, a fee of six hundred fifty dollars (\$650); and

(f) Notwithstanding any of the provisions of this subdivision (a)(3)(H) to the contrary, for a vehicle to be operated separately or in combination with other vehicles, which vehicle or combination has a total outside width in excess of one hundred two inches (102") but not exceeding one hundred eight inches (108") and is utilized or intended to be utilized to transport compacted seed cotton, the annual license fee shall be six hundred fifty dollars (\$650). Provided, any full trailer or semitrailer used in combination with such registered vehicle shall also be registered in accordance with and pursuant to the applicable fees set out in subdivision (a)(3)(I) of this section. That portion of the annual license fee established by this subdivision (a)(3)(H)(ii)(f) which equals four hundred eighty-seven dollars and fifty cents (\$487.50) is declared to be a permit fee for the use of the public roads and streets of this state by such vehicles while operated separately or in combination with other vehicles due to the unusual design and size of such vehicles or combinations of vehicles.

(iii)(a) The foregoing vehicles shall not exceed the maximum axle load permitted by law.

(b) Five-axle vehicles may haul maximum gross loaded weights of up to eighty thousand pounds (80,000 lbs.) without the purchase of any additional or different type license.

(iv) The Director of the Department of Finance and Administration shall cause to be issued special and distinctive license plates for vehicles in this classification, with separate farm license plates to be established for those vehicles used in the noncommercial hauling of farm products produced in this state, and for the hauling of feed, seed, fertilizer, poultry litter, and other products commonly produced or used in agricultural operations or compacted seed cotton and separate natural resources license plates to be established for those vehicles hauling timber products, clay minerals, or ores.

(v)(a) Before any license may be issued for a vehicle designated as either a farm vehicle or a natural resources vehicle, the applicant shall, by affidavit, state that he or she is familiar with the purposes



for which such licenses may be used as authorized under this classification and that he or she will not use such vehicle for which application for license is made for any purpose not authorized under this classification. The applicant shall indicate on his or her affidavit whether the vehicle is to be used for the hauling of farm products, animal feed, compacted seed, or cotton or for the hauling of forest products, clay minerals, or ores.

(b) If the applicant is the owner of a mini-truck, then the affidavit shall state that the vehicle is being used exclusively for farm purposes and that the mini-truck meets the other requirements of § 27-14-726.

(vi)(a) Upon submitting an affidavit, any person entitled to obtain a farm license for a motor vehicle used for hauling farm products as authorized under this classification, if the vehicle is required for only seasonal or occasional use, may be issued a farm license for the vehicle for the first six (6) months of the annual licensing period at a rate equal to one-half ( $\frac{1}{2}$ ) of the annual fee but in no event less than sixty-five dollars (\$65.00) or for the last month of the current annual licensing period and the first six (6) months of the subsequent annual licensing period at a rate equal to seven-twelfths ( $\frac{7}{12}$ ) of the annual fee but in no event less than seventy-five dollars (\$75.00).

(b) The director shall issue special distinctive license plates or license plate validation decals for the vehicles, including the indication thereon of the expiration date, so as to identify them from annual plates.

(vii) The owner of any motor vehicle who is entitled to obtain a farm license for such motor vehicle for use in hauling farm products as authorized in this subdivision (a)(3)(H) may use such motor vehicle for the hauling of baled cotton from the cotton gin to a cotton compress without the necessity of the payment of additional license fees or the obtaining of additional license plates for such motor vehicle.

(viii) The director shall promulgate such rules and regulations as may be necessary to carry out the intent of this classification and prevent abuse thereof. However, before any such rules or regulations shall be effective, they shall be approved by majority action of the members of the State Highway Commission acting for and in behalf of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, which is the agency charged with the principal responsibility of enforcing the motor vehicle license laws of this state.

(ix) Vehicles licensed under this classification for the hauling of farm products only shall be permitted, without payment of additional fees, to transport return loads to the farm or domicile of the owner of such vehicles where such return load contents are the property of, and to be used or consumed by, the owner of the vehicle or his or her family.

(x) If a violation of the natural resources classification as authorized in this subdivision (a)(3)(H) is discovered, a license must

immediately be purchased for such vehicle in accordance with the rate of license that should lawfully be required for such vehicle for so moving on the roads and highways of this state. No credit shall be given on the purchase price of such license for any amount or amounts paid for license hitherto purchased for use on such vehicle. This requirement of license purchase shall not be in lieu of any criminal prosecution.

(xi) All affidavits required under the provisions of this subdivision (a)(3)(H) shall be acknowledged by the director, his or her authorized agent, or some other person authorized by the laws of this state to administer oaths.

(xii) The owner of a mini-truck under § 27-14-726 may license and register the mini-truck as a Class Eight farm vehicle if the vehicle is used for farm purposes;

(I) Class Nine.

(i)(a) For the purpose of evidencing registration of trailers, semi-trailers, and full trailers, there shall be issued special license plates and annual registration fees charged and collected according to the following schedule:

(1) All trailers drawn by automobiles and Class One trucks, and all boat trailers and travel trailers drawn by any truck, which truck has a load capacity of one (1) ton or less, a triennial fee of twenty-one dollars (\$21.00). Provided, however, every owner of a trailer drawn by automobiles and Class One trucks, and all boat trailers and travel trailers drawn by any truck, purchased or otherwise acquired on or after January 1, 2002 shall pay thirty-six dollars (\$36.00) for the issuance of a permanent registration that shall remain valid, without renewal, until the owner of the trailer sells or otherwise disposes of the trailer for which the registration is issued. Permanent registration issued under this subdivision (a)(3)(I)(i)(a)(1) shall not be transferred to other owners or other vehicles, and shall not be replaced under § 27-14-602(b)(6). Any owner of a trailer registered under the provisions of this subdivision before January 1, 2002 may, at his or her option, upon expiration of such registration, pay thirty-six dollars (\$36.00) for the issuance of a permanent registration as authorized in this subdivision (a)(3)(I)(i)(a)(1);

(2) All semitrailers used in combination with Class Two — Class Eight trucks, with the exception of those for which a fee is set out in subdivision (a)(3)(I)(i)(a)(1) of this section, a fee of twenty dollars (\$20.00). Provided, however, the owner of any semitrailer used in combination with Class Two — Class Eight trucks may, at his or her option, pay a fee of sixty-five dollars (\$65.00) for issuance of a permanent registration that shall remain valid, without annual renewal, until he or she sells or otherwise disposes of the semitrailer for which the registration is issued. Permanent registrations issued under this subdivision (a)(3)(I)(i)(a)(2) shall not be transferred to other owners or other vehicles and shall not be replaced under § 27-14-602(b)(6);



(3) Full trailers operated in the transportation of farm products and other natural resources described as Class Eight, a fee of eight dollars (\$8.00); and

(4) For all other full trailers there shall be charged an annual license fee computed on the gross loaded weight of the vehicle at the appropriate rate provided by Class Two — Class Seven of subdivision (a)(3) of this section.

(b) For the purpose of evidencing registration of a combination of truck-trailer and semitrailer classified by subdivision (a)(3)(I)(i)(a)(2), the license fee for the gross weight of the combination shall be computed at the appropriate rate provided by Class Two — Class Eight of subdivision (a)(3) of this section and shall be applied to the registration of the truck tractor.

(ii)(a) "Gross loaded weight" as used in this section means the weight of the vehicle or vehicles plus the load to be hauled.

(b)(1) If any truck, trailer, or semitrailer, as provided in this section, is at any time found to be operating on the highways of Arkansas with a gross loaded weight in excess of the weight permitted by the license registration thereon, the owner or his or her agent must then and there, before proceeding, pay an additional license fee on the truck, trailer, or semitrailer, or combination, on the basis of one dollar and thirty cents (\$1.30) per one hundred pounds (100 lbs.), or fraction thereof, for the excess weight. For the purpose of ascertaining excess loaded weight on any truck, trailer, semitrailer, or combination thereof, a tolerance of one thousand pounds (1,000 lbs.) over and above the permitted weight, as indicated by the license registration certificate thereof, shall be allowed before the additional license fee required in this subdivision (a)(3)(I)(ii)(b)(1) shall be charged.

(2) It shall be unlawful for any truck to operate on the highways of Arkansas without the license registration card being, at all times, in the possession of the operator thereof. This card shall, at all times, be subject to inspection.

(3) Any truck, trailer, or semitrailer, or combination thereof, on which an additional license fee is paid because of excess weight, as provided in this subdivision (a)(3)(I)(ii)(b), shall be permitted for the remaining portion of the regular license year to operate at the newly established weight limit.

(4) In no event shall any license be issued for a greater weight than that permitted by law governing axle loads; and

(J)(i) The director shall cause to be issued special and distinctive license plates for vehicles licensed under Class Two — Class Seven in this section, which are utilized as wreckers or tow vehicles and that hold a permit issued by the Arkansas Towing and Recovery Board under § 27-50-1203 and the rules and regulations promulgated thereunder.

(ii) Before any license may be issued for a vehicle designated as a wrecker or tow vehicle, the applicant shall furnish to the director a

certification from the board that the wrecker or tow vehicle has been permitted as a wrecker or tow vehicle by the board.

(iii) Beginning January 1, 2008, every wrecker or tow vehicle permitted by the board shall obtain upon initial registration or at the time of next renewal a distinctive wrecker or tow vehicle license plate.

(iv) In addition to the fee for the respective Class Two — Class Seven license, the director may assess a handling and administrative fee in the amount of ten dollars (\$10.00) for each distinctive wrecker or tow vehicle license plate.

(v) A wrecker or tow vehicle licensed pursuant to the International Registration Plan may obtain the distinctive wrecker or tow vehicle license plate to be displayed in addition to any license plate held pursuant to the International Registration Plan;

(4) MOTORCYCLES.

(A) For the registration of motorcycles, there shall be charged and collected a fee of six dollars and fifty cents (\$6.50) per annum.

(B) For the registration of motor-driven cycles, there shall be charged and collected a fee of three dollars and twenty-five cents (\$3.25) per annum.

(C) For the registration of motorcycle sidecars, there shall be charged and collected an additional registration fee of one dollar and ninety-five cents (\$1.95) per annum;

(5) HEARSEs AND AMBULANCES. For the registration of hearses and other funeral cars or ambulances, there shall be charged and collected a fee of forty-five dollars and fifty cents (\$45.50) per annum; and

(6) DEALERS.

(A) A "dealer", for the purposes of this subdivision (a)(6), means a person, firm, or corporation engaged in the business of buying and selling vehicles subject to registration in this state.

(B)(i) As a condition precedent to obtaining dealer's license plates, the dealer shall furnish the director a certification that the applicant is a vehicle dealer and has a bona fide, established place of business used for the sale of vehicles, an office used for that business, a telephone listed in the name of the business, and a sign identifying the establishment. Certification shall be required for all renewals of dealer license plates. This dealer certification shall not apply to dealers licensed by the Department of Arkansas State Police, the Arkansas Motor Vehicle Commission, or the Arkansas Manufactured Home Commission and who are regulated by those authorities. The dealer certification shall consist of completion of a self-certification form prepared by the Office of Motor Vehicle.

(ii)(a) Except as provided in subdivision (a)(6)(B)(iv) of this section for dealers who sell only all-terrain vehicles, upon furnishing the certification to the director, or a copy of the dealer's license from either the Department of Arkansas State Police or the Arkansas Motor Vehicle Commission and the payment of a fee of one hundred dollars (\$100), the dealer shall be issued a master license plate and



upon the payment of a fee of twenty-five dollars (\$25.00) shall be issued a dealer's extra license plate as provided in § 27-14-1704. However, the dealer must secure a master license plate for each separate place of business.

(b) No more than one (1) dealer's extra license plate shall be issued for each manager, sales manager, or salesperson of the dealer as authorized under § 27-14-1704, regardless of whether the dealer sells automobiles, motorcycles, or both automobiles and motorcycles.

(c) Notwithstanding any other provision of this chapter, the Office of Motor Vehicle shall provide distinctive dealer's master and extra license plates for motorcycles. Motorcycle dealers shall not be provided and shall not be authorized to use dealer's license plates designed for any motor vehicle other than a motorcycle unless the dealer provides proof to the satisfaction of the Office of Motor Vehicle that the dealer is also in the business of selling new or used motor vehicles of the type for which the dealer plate is sought.

(iii)(a) Upon furnishing certification to the director or a copy of the dealer's license from the Arkansas Manufactured Home Commission and upon the payment of fifty dollars (\$50.00), the manufactured home dealer shall be issued certification from the director for the purpose of assigning manufactured home titles.

(b) Each location shall be treated as a separate entity, and certification by the department shall be required for each location.

(c) Notwithstanding any other provision of this chapter, the Office of Motor Vehicle shall provide distinctive dealer's license plates for manufactured homes. Manufactured home dealers shall not be provided and shall not be authorized to use dealer's license plates designed for a motor vehicle, motorcycle, or anything other than a manufactured home.

(iv)(a) Upon furnishing certification to the director or a copy of the dealer's license from the Arkansas Motor Vehicle Commission and upon the payment of one hundred dollars (\$100), dealers engaged exclusively in the business of buying and selling all-terrain vehicles, as defined in § 27-21-102, shall be issued certification from the director for the purpose of assigning all-terrain vehicle titles.

(b) Each dealer location shall be treated as a separate entity, and certification by the director shall be required for each location.

(c) Notwithstanding any other provision of this chapter, all-terrain vehicle dealers that are engaged solely in the business of buying and selling all-terrain vehicles shall not be provided and shall not be authorized to use dealer's license plates designed for any motor vehicle required to be registered for operation on public streets and highways.

(C) When a dealer's master license plate or extra license plate is attached to any dealer-owned motor vehicle, the motor vehicle may be used by the dealer, a manager, a sales manager, or a salesperson employed by the dealership to drive to or from work and for personal or business trips inside or outside the dealer's county of residence.

(D) In addition to any other penalty prescribed by this chapter, any dealer, manager, sales manager, or salesperson of the dealer who pleads guilty or nolo contendere to or who is found guilty of the misuse of a dealer's master license plate or dealer's extra license plate or of allowing anyone else to misuse a dealer's master license plate or dealer's extra license plate shall be fined not more than two hundred fifty dollars (\$250) for the first offense, not more than five hundred dollars (\$500) for the second offense, and not more than one thousand dollars (\$1000) for the third and subsequent offenses.

(b) PERIOD COVERED AND EXPIRATION OF REGISTRATION.

(1) On all motor vehicles, except trucks other than Class One trucks as defined in § 27-14-1002, truck-tractors, trailers, and semitrailers, and combinations thereof, the duration and expiration of registration shall be in accord with the provisions of § 27-14-1011, and all fees provided in this section for those motor vehicles shall be due and payable annually as provided therein.

(2)(A) On all trucks except Class One trucks as defined in § 27-14-1002, truck-tractors, trailers, and semitrailers, and combinations thereof, except trailers drawn by automobiles and Class One trucks, the registration shall be valid for twelve (12) months from the month of issuance of registration, and all fees provided in this section for those vehicles shall be due and payable annually during the twelfth month of the registration period.

(B) No person shall have the authority to extend the time for payment of such fees past the period specified in this subdivision (b)(2).

(C) The provisions of this subdivision (b)(2) shall not apply to trailers drawn by automobiles or by Class One trucks.

(D)(i) The director shall, upon request, assign the same registration period to any owner of two (2) or more trucks, truck-tractors, trailers, and semitrailers, and combinations thereof, except Class One trucks as defined in § 27-14-1002.

(ii) The director shall, upon request, assign a different month of registration other than the vehicle's current month of registration to any owner of a truck, truck-tractor, trailer, and semitrailer, and combinations thereof, except Class One trucks as defined in § 27-14-1002, and all fees shall be prorated accordingly on a monthly basis.

(c) NATURE OF FEES. Each of the fees authorized in this section is declared to be a tax for the privilege of using and operating a vehicle on the public roads and highways of the State of Arkansas.

(d)(1) All taxes, fees, penalties, interest, and other amounts collected under the provisions of this section, with the exception of that portion of the fee declared to be a permit fee and collected pursuant to subdivision (a)(3)(H)(ii)(f) of this section, shall be classified as special revenues and shall be deposited in the State Treasury. After deducting the amount to be credited to the Constitutional Officers Fund and the State Central Services Fund as provided under the Revenue Stabilization Law, § 19-5-101 et seq., the Treasurer of State shall transfer on the last business day of each month:



(A) Fifteen percent (15%) of the amount thereof to the County Aid Fund;

(B) Fifteen percent (15%) of the amount thereof to the Municipal Aid Fund; and

(C) Seventy percent (70%) of the amount thereof to the State Highway and Transportation Department Fund.

(2) The funds shall be further disbursed in the same manner and used for the same purposes as set out in the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

(3) That portion of the annual license fee collected pursuant to subdivision (a)(3)(H)(ii)(f) of this section declared to be a permit fee shall be classified as special revenues and shall be deposited in the State Treasury. The Treasurer of State shall transfer on the last business day of each month all of such portions of such annual license fees to the State Highway and Transportation Department Fund to be utilized for the construction, reconstruction, and maintenance of highways and bridges in the state highway system.

(e) PENALTY.

(1) Any person owning a vehicle on which a fee is required to be paid under the terms of this section who shall operate it or permit it to be operated on a public road in this state without having paid the fee required by this section shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than double the fee provided for and not more than three thousand dollars (\$3,000).

(2) If the arresting officer is:

(A) An officer of the Department of Arkansas State Police, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Division of Administrative Services of the Department of Finance and Administration on a form provided by the Administration of Justice Fund Section of the Division of Administrative Services of the Department of Finance and Administration for deposit into the Department of Arkansas State Police Fund, to be used for the purchase and maintenance of state police vehicles;

(B) An officer of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Division of Administrative Services of the Department of Finance and Administration on a form provided by the Administration of Justice Fund Section of the Division of Administrative Services of the Department of Finance and Administration for deposit into the State Highway and Transportation Department Fund, to be used for the purchase and maintenance of highway police vehicles;

(C) A county law enforcement officer, the fine collected shall be deposited into the county fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforce-

ment agencies, lifesaving medical apparatus, and law enforcement apparatus, to be used for those purposes; and

(D) A municipal law enforcement officer, the fine collected shall be deposited in that municipality's fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, lifesaving medical apparatus, and law enforcement apparatus, to be used for those purposes.

**History.** Acts 1929, No. 65, § 24; 1931, No. 237, § 1; 1933, No. 6, § 1; 1933, No. 36, §§ 1, 2; 1933, No. 44, § 1; 1933, No. 51, § 1; 1934 (2nd Ex. Sess.), No. 11, §§ 31-33; Pope's Dig., §§ 6615, 11270-11272; Acts 1941, No. 377, § 1; 1943, No. 205, § 1; 1949, No. 235, §§ 1, 8; 1951, No. 59, § 1; 1951, No. 78, § 1; 1953, No. 377, § 1; 1959, No. 462, § 2; 1963, No. 142, § 1; 1965, No. 493, § 8; 1965 (1st Ex. Sess.), No. 42, § 1; 1967, No. 21, § 1; 1967, No. 82, § 1; 1967, No. 452, § 1; 1971, No. 181, § 1; 1971, No. 348, § 1; 1971, No. 469, § 1; 1975, No. 194, § 1; 1975 (Extended Sess., 1976), No. 1235, §§ 1, 2; 1979, No. 440, §§ 1, 5; 1979, No. 671, §§ 23, 24; 1981, No. 63, §§ 1, 2; 1981, No. 692, §§ 1, 2; 1981, No. 797, § 1; 1983, No. 890, § 1; 1985, No. 415, § 2; 1985, No. 893, § 1; 1985, No. 1006, § 1; A.S.A. 1947, §§ 75-201, 75-201.7; Acts 1987, No. 145, § 1; 1987, No. 537, § 1; 1987, No. 945, § 5; 1989, No. 103, § 1; 1991, No. 96, §§ 1, 2; 1991, No. 219, §§ 1, 2, 6; 1992 (1st Ex. Sess.), No. 68, §§ 1, 2; 1992 (1st Ex. Sess.), No. 69, §§ 1, 2; 1993, No. 490, §§ 14, 15; 1993, No. 905, § 1; 1995, No.

357, § 5; 1995, No. 389, §§ 1, 2; 1997, No. 297, § 1; 1997, No. 809, § 1; 1997, No. 1047, § 1; 1999, No. 385, § 1; 1999, No. 1443, § 1; 2001, No. 330, § 1; 2001, No. 923, §§ 1, 2; 2001, No. 1431, § 1; 2003, No. 343, § 1; 2003, No. 361, § 1; 2003, No. 463, §§ 1, 2; 2003, No. 833, §§ 1, 2; 2005, No. 1929, § 1; 2005, No. 1934, § 17; 2005, No. 1950, § 1; 2007, No. 347, §§ 1, 2; 2007, No. 1412, § 5; 2009, No. 146, § 1.

**Amendments.** The 2009 amendment, in (a)(3)(H), inserted "either farm or" or similar language in (a)(3)(H)(ii) and (a)(3)(H)(v)(a), inserted "including mini-trucks" in (a)(3)(H)(ii)(a), inserted "farm" preceding "license plates" and inserted "natural resources" preceding the second instance of "license plates" in (a)(3)(H)(iv), inserted (a)(3)(H)(v)(b) and redesignated the preceding subdivision accordingly, substituted "farm license" for "natural resources license" twice in (a)(3)(H)(vi)(a) and in (a)(3)(H)(vii), deleted "natural resources" preceding "plates" in (a)(3)(H)(vi)(b), added (a)(3)(H)(xii), and made minor punctuation and stylistic changes.

**27-14-602. Registration fees.**

(a) Except as otherwise provided, all fees shall be paid to the Office of Motor Vehicle for the registration of motor vehicles, trailers, and semitrailers under this chapter.

(b) The following fees shall be charged under this chapter by the Commissioner of Motor Vehicles:

- (1) For each certificate of title .....\$2.00
- (2) For each duplicate certificate of title .....2.00
- (3) For noting each lien .....50
- (4) For transfer of registration .....1.00
- (5) For duplicate or substitute registration certificate .....1.00
- (6) For duplicate or substitute license plate .....1.00

**History.** Acts 1949, No. 142, §§ 82, 83; 1965, No. 493, § 2; A.S.A. 1947, §§ 75-182, 75-183; Acts 2011, No. 718, § 1.

**Amendments.** The 2011 amendment

added "Except as otherwise provided, all" at the beginning of (a); and substituted "\$2.00" for "\$1.00" in (b)(1) and (2).



**27-14-606. Disposition.**

(a)(1) Fifty percent (50%) of the fees collected under § 27-14-602(b)(1) and (2) and one hundred percent (100%) of the fees collected under § 27-14-602(b)(3)-(6) shall be;

(A) Deposited into the 1995 New Revenue Division Building Fund as cash funds; and

(B) Used for the repayment of bonds that may be issued by or for the benefit of the Arkansas Revenue Department Building Commission under the 1995 New Revenue Division Building Act.

(2) Fifty percent (50%) of the fees collected under § 27-14-602(b)(1) and (2) shall be:

(A) Deposited into the State Treasury as trust funds and credited to the State Police Retirement Fund; and

(B) Used for the State Police Retirement System for the Department of Arkansas State Police.

(3) At least nine hundred twenty thousand dollars (\$920,000) of the fees collected under subdivision (a)(1) of this section shall first be distributed to the 1995 New Revenue Division Building Fund and the Arkansas Revenue Department Building Commission under the 1995 New Revenue Division Building Act before distribution of the fees as provided under subdivision (a)(2) of this section.

(b) All fees collected by the circuit clerk and recorder as required by this chapter shall not be affected by the provisions of this section.

**History.** Acts 1949, No. 142, § 85; 1965, No. 493, § 3; A.S.A. 1947, § 75-185; Acts 1995, No. 725, § 7; 2011, No. 718, § 3.

**Amendments.** The 2011 amendment subdivided part of (a); rewrote (a)(1); and added (a)(2) and (3).

**27-14-610. Permanent registration of a fleet of motor vehicles.**

(a) As used in this section:

(1) "Affiliate" means any entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another entity;

(2)(A) "Fleet of motor vehicles" means at least fifty (50) motor vehicles that are:

(i) Owned or leased by a person or entity described in § 26-26-1601(12)–(16) or affiliates of that person or entity; and

(ii) Used for business purposes.

(B) "Fleet of motor vehicles" includes commercial motor vehicles that are base-plated in the State of Arkansas or passenger motor vehicles otherwise subject to registration under this chapter.

(C) "Fleet of motor vehicles" does not include motor vehicles registered and governed under § 27-14-502 or motor vehicles registered under an international registration plan administered by a state other than Arkansas; and

(3) "Owns or controls" means owning or holding at least a majority of the outstanding voting power of an entity.

(b) Notwithstanding any other provision of this chapter, the registered owner or lessee of a fleet of motor vehicles may apply as provided in this section to the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration for a license plate with a decal identifying the vehicle as a fleet vehicle.

(c) The license plate issued under this section shall be the standard license plate for the class and type of vehicle otherwise required under this chapter with a decal bearing the word "fleet" at the bottom of the license plate.

(d)(1) Payment of all registration fees and fleet management fees under this section shall be paid in advance for a period of three (3) years.

(2)(A) The fees for renewal of a vehicle registration under this section shall be due and payable during the last month of the last year of the registration period.

(B) Upon request, the office shall allow the owner of a fleet of motor vehicles to set all renewals for the fleet to occur in a month requested by the owner.

(3)(A) The office may shorten or lengthen the term of any renewal period under this section by rule and upon notice to all owners of a fleet registered under this section as necessary to provide a staggered system of renewal in which approximately one-third ( $\frac{1}{3}$ ) of the vehicles in a fleet shall be renewed in any given year.

(e)(1) The fees for registration and renewal of registration of a vehicle under this section shall be the same amount as and shall be distributed in the same manner as the fees otherwise required under this chapter for the type and class of vehicle being registered.

(2)(A) In addition to the registration fees prescribed for issuance or renewal under this chapter, an annual fleet management fee of ten dollars (\$10.00) per motor vehicle in the fleet of motor vehicles shall be charged.

(B) The annual fleet management fee shall be deposited as special revenues into the State Central Services Fund to be used exclusively for the benefit of the division.

(f)(1) Upon payment of the registration fees and fleet management fees as provided under subsection (e) of this section, the owner or lessee of the fleet of motor vehicles shall be issued a license plate with a decal for each motor vehicle in the fleet of motor vehicles registered under this section.

(2) Each license plate with a decal issued under this section shall bear a validation sticker as required for standard license plates issued under this chapter reflecting the period that the owner or lessee of the fleet of motor vehicles has paid in advance.

(g) A license plate with a decal issued under this section may be transferred to another vehicle of the same type and class in the same fleet of motor vehicles in the same manner and subject to the same fees prescribed in §§ 27-14-902 and 27-14-914.



(h) A license plate with a decal issued under this section that has been lost or destroyed may be replaced in the same manner and subject to the same fees prescribed in § 27-14-602.

(i) The office may adopt rules for the implementation, administration, and enforcement of this section.

**History.** Acts 2009, No. 1194, § 1.

lessee generally, § 27-14-902.

**Cross References.** Registrations fees,  
§ 27-14-602.

Transfer of license plates and registration from one vehicle to another, § 27-14-914.

Transfer or assignment by owner or

## **27-14-611. Registration for nonprofit motor vehicle fleets.**

(a) As used in this section:

(1) "Fleet of motor vehicles" means at least twenty-five (25) motor vehicles that are owned or leased by an organization and used for the organization's purposes; and

(2) "Organization" means a nonprofit organization or its affiliate that:

(A) Has been approved for tax exempt status under Section 501(c)(3) of the Internal Revenue Code as in effect on January 1, 2011; and

(B) Is eligible to participate in the federal transit grant programs administered through the Arkansas State Highway and Transportation Department.

(b)(1) An organization may apply to the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration for the registration and licensing of its fleet of motor vehicles as provided under this section.

(2) The license plate issued under this section shall be the standard license plate for the class and type of vehicle otherwise required under this chapter and may be transferred to another motor vehicle of the same class and type owned by the same organization.

(c)(1) The registration and renewal fees shall be the same amount and shall be distributed in the same manner as the fees otherwise required for the class and type of vehicle being registered.

(2) Registration and renewal fee payments shall be paid in advance for either a period of two (2) or three (3) years.

(3) The registration and renewal fee payments are due and payable during the last month of the last year of the registration period.

(4) The organization may choose the month in which renewals occur.

(d)(1) Except as provided in subdivision (d)(2) of this section, in addition to the registration fees prescribed for issuance, an initial fleet management fee of ten dollars (\$10.00) per motor vehicle shall be charged for the first year of registration as a fleet vehicle.

(2) The initial fleet management fee for a fleet of motor vehicles shall not exceed five hundred dollars (\$500).

(3) The initial fleet management fee shall be deposited as special revenues into the State Central Services Fund as direct revenue to the Revenue Division of the Department of Finance and Administration.

(e)(1) For each motor vehicle registration or renewal, the organization shall provide the documents that the Office of Motor Vehicle requires.

(f)(1) The Office of Motor Vehicle may adopt rules for the implementation, administration, and enforcement of this section.

(2) If the Director of the Department of Finance and Administration determines that online renewals are available under this section, the organization may be allowed to renew online.

**History.** Acts 2011, No. 192, § 1. (a)(2)(A), is codified as 26 U.S.C. U.S. Code. Section 501(c)(3) of the § 501(c)(3). Internal Revenue Code, referred to in

### **27-14-612. Multiyear personal-use vehicle registration.**

(a) As used in this section, “personal-use vehicle” means a pleasure vehicle registered under § 27-14-601(a)(1) or a Class One truck or van under § 27-14-601(a)(3)(A).

(b) The Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration shall offer a multiyear personal-use vehicle registration as provided under this section.

(c)(1) The owner of a personal-use vehicle may submit a multiyear personal-use vehicle registration for a period of two (2) years by providing the following information to the office with the application:

(A) All information necessary for the registration and licensing of the vehicle under law to include:

(i) Proof that property taxes have been timely paid for the preceding two (2) years; and

(ii) Proof that the motor vehicle has been insured as required under § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., for the preceding two (2) years; and

(B) Payment of the fees for registration and licensing for two (2) years.

(2) The owner of a personal-use vehicle may submit a multiyear personal-use vehicle registration for a period of three (3) years by providing the following information to the office with the application:

(A) All information necessary for the registration and licensing of the vehicle under law to include:

(i) Proof that property taxes have been timely paid for the preceding three (3) years; and

(ii) Proof that the motor vehicle has been insured as required under § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., for the preceding three (3) years; and

(B) Payment of the fees for registration and licensing for three (3) years.

(d) A personal-use vehicle is not eligible for registration under this section if it has not been licensed and registered for the period that the owner seeks to register the vehicle for multiple years prior to the owner's seeking to register the vehicle for multiple years.

(e) The Office of Motor Vehicle may promulgate rules for the administration of this section.

**History.** Acts 2011, No. 904, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 904, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) The demands that people are placed under with work, family, and other activities are increasing, and time is becoming more and more precious;

“(2) Many constituents have stated that having multiyear personal vehicle registration would save them time and worries all year long because they have multiple vehicles;

“(3) Other states, including bordering

states, allow the multiyear registering of motor vehicles for personal use;

“(5) The government should listen to and work for the people and by doing so conserve both the citizens’ and the government’s resources; and

“(6) This law represents good government because it gives working families what they need to streamline their lives and at the same time reduces the staffing need for motor vehicle registrations in the state by reducing the number of annual personal-use vehicle registrations.”

## SUBCHAPTER 7 — REGISTRATION AND CERTIFICATES OF TITLE

### SECTION.

27-14-705. Application for registration and certificate of title.

27-14-713. Issuance of registration certificates and certificates of title.

27-14-720. Lost or damaged certificates and plates.

### SECTION.

27-14-723. When residents and nonresidents to obtain state registration and license.

27-14-726. Mini-trucks.

27-14-727. Certificate of title with beneficiary.

**Effective Dates.** Acts 2011, No. 718, § 4: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police is experiencing severe revenue shortages in the State Police Retirement System and that this act is neces-

sary to ensure that the State Police Retirement System continues to operate in a fiscally sound manner. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

## 27-14-701. Requirements — Exception.

### CASE NOTES

**Cited:** *Stufflebeam v. Harris*, 521 F.3d 884 (8th Cir. 2008).



**27-14-704. Motor vehicles registered in foreign states.****CASE NOTES****Traffic Stop.**

Police officer had probable cause under § 27-14-716 to stop defendant because the license plate frame obscured the identification of the plate's issuing state; the license plate was not clearly visible and

the statute applied to all vehicles traveling on Arkansas roads, and as such, defendant's motion to suppress was properly denied. *Hinojosa v. State*, 2009 Ark. 301, 319 S.W.3d 258 (2009).

**27-14-705. Application for registration and certificate of title.**

(a)(1) Every owner of a vehicle subject to the registration under this chapter shall make application to the Office of Motor Vehicle for the registration of the vehicle and issuance of a certificate of title or a certificate of title with beneficiary under § 27-14-727 for the vehicle upon the appropriate forms furnished by the office.

(2) Every application shall bear the signature of the owner, written with pen and ink, unless the person is unable to write, in which case he affixes his mark, "X", which must be witnessed by a person other than the office employee, and the signature shall be acknowledged by the owner before a person authorized to administer oaths.

(b) The application shall contain:

(1) The name, bona fide residence, and mailing address of the owner or business address of the owner if a firm, association, or corporation;

(2)(A) A description of the vehicle, including, insofar as the data specified in this subsection may exist with respect to a given vehicle, the make, model, type of body, the number of cylinders, the serial number of the vehicle, the engine or other number of the vehicle designated to identify vehicles for registration purposes, and whether new or used, and if a new vehicle, a certificate of origin.

(B)(i) Except as provided under § 27-14-726, the certificate of origin shall be furnished to the dealer by the manufacturer and shall accompany the application for license and title.

(ii) Except as provided under § 27-14-726, no license for the operation of the vehicle shall be granted and no certificate of title shall be issued unless the certificate of origin is made a part of the application.

(C) The certificate of origin shall be on a form to be prescribed by the Commissioner of Motor Vehicles.

(D) In the event a vehicle is designed, constructed, converted, or rebuilt for the transportation of property, the application shall include a statement of its capacity in terms of maximum gross vehicle weight rating as authorized by the manufacturer of the chassis or the complete vehicle;

(3) A statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and addresses of all persons having any interest therein and the nature of every such interest and

the name and address of the person to whom the certificate of title shall be delivered by the office;

(4)(A) Further information as may reasonably be required by the office to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title.

(B) When such application refers to a new vehicle purchased from a dealer, the application shall be accompanied by a statement by the dealer or a bill of sale showing any lien retained by the dealer and a fee of fifty cents (50¢) in addition to the title.

(C) For the purposes of this section:

(i) The words “new vehicle” shall be defined as any motor vehicle transferred for the first time from a manufacturer or importer, or dealer or agent of a manufacturer or importer, and which motor vehicle had theretofore not been used, and is what is commonly known as a “new motor vehicle”; and

(ii) The words “used vehicle” shall be any motor vehicle which has been sold, bargained, exchanged, given away, or the title transferred from the person who first took ownership from the manufacturer or importer, dealer, or agent of the manufacturer or importer, or so used as to have become what is commonly known as a “secondhand motor vehicle”.

(c) In addition to the application referred to in subsections (a) and (b) of this section, a title application fee in the amount of eight dollars (\$8.00) per motor vehicle is imposed on each title issued, which shall be paid to the office at the time that application for registration thereof is made.

(d)(1) All fees, fines, penalties, and other amounts collected under subsection (c) of this section shall be remitted to the Treasurer of State separate and apart from other taxes and fees.

(2)(A) Three percent (3%) of the gross amount thereof shall be deducted by the Treasurer of State as provided by law.

(B) The net amount remaining after the deduction of the three percent (3%) is distributed as follows:

(i) Fifty percent (50%) of the net amount shall be distributed as provided under the Arkansas Highway Revenue Distribution Law, § 27-70-207 et seq.; provided that at least three million, six hundred eighty thousand dollars (\$3,680,000) shall be distributed as provided in this subdivision (d)(2)(B)(i) before any other distributions are made under this section; and

(ii) Fifty percent (50%) of the net amount shall be deposited into the State Treasury as trust funds and credited to the State Police Retirement Fund to be used for the State Police Retirement System.

**History.** Acts 1949, No. 142, § 33; § 2; 2011, No. 335, § 1; 2011, No. 718, 1955, No. 110, § 1; 1979, No. 439, § 1; § 2.  
1981, No. 40, § 1; A.S.A. 1947, § 75-133; **Amendments.** The 2009 amendment  
Acts 1987, No. 945, § 6; 2009, No. 146, inserted “Except as provided under § 27-

14-726" in (b)(2)(B)(i) and (ii) and made a related and stylistic change.

The 2011 amendment by No. 335 inserted "or a certificate of title with beneficiary under § 27-14-727" in (a)(1).

The 2011 amendment by No. 718 substituted "eight dollars (\$8.00)" for "four

dollars (\$4.00)" in (c); deleted "and the net amount thereof shall be distributed as provided by the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq." at the end of (d)(2)(A); and added (d)(2)(B).

### **27-14-713. Issuance of registration certificates and certificates of title.**

(a) The Office of Motor Vehicle, upon registering a vehicle, shall issue a registration certificate and a certificate of title. The registration certificate and the certificate of title shall be of a type which, as nearly as possible, prevents the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(b)(1) The registration certificate shall be delivered to the owner and shall contain, upon the face thereof, the date issued, the name and address of the owner, the registration number assigned to the vehicle, and such description of the vehicle as determined by the Commissioner of Motor Vehicles.

(2) Upon the reverse side it shall contain a form for endorsement of notice to the office upon transfer of the vehicle.

(c)(1)(A) The certificate of title shall contain upon its face the identical information required upon the face of the registration certificate.

(B) In addition, it shall contain:

(i) A statement of the owner's title;

(ii) A statement of all liens and encumbrances on the vehicle therein described;

(iii) A statement as to whether possession is held by the owner under a lease, contract of conditional sale, or other like agreement; and

(iv) If a certificate of title is issued as a certificate of title with beneficiary, the information required under § 27-14-727.

(2) The certificate shall bear the seal of the office.

(d)(1) The certificate of title shall contain upon the front side a space for the signature of the owner, and the owner shall write his or her name with pen and ink in such space upon receipt of the certificate, except when a surviving owner or a beneficiary applies for a new title under § 27-14-727.

(2) The certificate shall also contain upon the reverse side forms for assignment of title or interest and warranty thereof by the owner, with space for notation of liens and encumbrances upon the vehicle at the time of a transfer.

(e)(1) The certificate of title shall be delivered to the owner in the event no lien or encumbrance appears thereon.

(2) Otherwise, the certificate of title shall be delivered either to the person holding the first lien or encumbrance upon the vehicle as shown



in the certificate or to the person named to receive it in the application for such certificate.

**History.** Acts 1949, No. 142, § 39; 1981, No. 697, § 1; A.S.A. 1947, § 75-139; Acts 2007, No. 171, § 1; 2011, No. 335, §§ 2, 3.

**Amendments.** The 2011 amendment

subdivided (c)(1)(B); inserted (c)(1)(B)(iv); and added “except when a surviving owner or a beneficiary applies for a new title under § 27-21 14-727” at the end of (d)(1).

## 27-14-716. Display of license plates generally.

### CASE NOTES

#### Probable Cause.

Police officer had probable cause under this section to stop defendant because the license plate frame obscured the identification of the plate’s issuing state; the license plate was not clearly visible and

the statute applied to all vehicles traveling on Arkansas roads, and as such, defendant’s motion to suppress was properly denied. *Hinojosa v. State*, 2009 Ark. 301, 319 S.W.3d 258 (2009).

## 27-14-720. Lost or damaged certificates and plates.

(a) In the event any registration certificate or license plate is lost, mutilated, or becomes illegible, the owner or legal representative or successor in interest of the owner of the vehicle for which it was issued, as shown by the records of the Office of Motor Vehicle, shall immediately make application to the office for, and may obtain, a duplicate or a substitute or a new registration under a new registration number, as determined to be most advisable by the office, upon the applicant’s furnishing information satisfactory to the office.

(b)(1)(A) In the event any certificate of title is lost, mutilated, or becomes illegible the owner or legal representative or successor in interest of the owner of the vehicle for which it was issued, as shown by the records of the office, shall immediately make application to the office for and may obtain a duplicate if the conditions of this subdivision (b)(1) are satisfied.

(B) The following information shall be included in the application:

(i) The year, make, model, vehicle identification number, and body style of the vehicle;

(ii)(a) The name of a lienholder; and

(b) A release if the applicant claims that the lien has been released; and

(iii) Other information required by the office.

(C) The fee for a duplicate title shall accompany the application.

(D) The office may issue a duplicate title without notice if the records of the office do not show that a lien exists against the vehicle.

(E)(i)(a) The office shall mail notice to a lienholder shown in the records of the office at the address shown in the records for the lienholder.

(b) The notice shall state that the lienholder must respond to the office within ten (10) business days from the date of the notice if the

lien has not been released, or the duplicate title will be issued without recording the lien.

(ii)(a) At the earlier of the time the lienholder responds indicating that the lien has been released or the expiration of the time for response by the lienholder, the office may issue a duplicate title without recording the name of the lienholder.

(b) If the lienholder responds within the time for response indicating that the lien has not been released, the office may issue a duplicate that places the name of the lienholder on the duplicate title.

(iii) The notice required under this subdivision (b)(1)(E) shall not apply to a motor vehicle dealer approved by the Department of Finance and Administration.

(2) Upon issuance of any duplicate certificate of title, the previous certificate last issued shall be void.

**History.** Acts 1949, No. 142, § 45; A.S.A. 1947, § 75-145; Acts 2009, No. 634, § 1.

**Amendments.** The 2009 amendment rewrote (b)(1), which read: "In the event any certificate of title is lost, mutilated, or becomes illegible the owner or legal rep-

resentative or successor in interest of the owner of the vehicle for which it was issued, as shown by the records of the office, shall immediately make application for, and may obtain a duplicate, upon the applicant furnishing information satisfactory to the office."

### **27-14-723. When residents and nonresidents to obtain state registration and license.**

(a) Within thirty (30) calendar days of becoming a resident, a person who is a resident of this state shall obtain an Arkansas motor vehicle registration and license in order to operate a motor vehicle upon the streets and highways of this state.

(b) A nonresident person who has been physically present in this state for a period of six (6) months shall obtain an Arkansas motor vehicle registration and license in order to operate a motor vehicle upon the streets and highways of this state.

(c)(1)(A) As used in this subsection, "entity" means a firm, corporation, association, partnership, or organization that transacts or conducts business in Arkansas and has a place of business in Arkansas.

(B) "Entity" does not include a firm, corporation, association, partnership, or organization engaged in one (1) or more of the following:

(i) Governmental operations, including municipal, county, state, or federal operations;

(ii) Utility operation, maintenance, or repair;

(iii) Construction;

(iv) Natural resource exploration, production, or mining, including without limitation oil, gas, gravel, and timber; or

(v) Agricultural operations.

(2)(A)(i) An entity that transacts or conducts business in Arkansas and has a place of business in Arkansas shall register a motor vehicle

considered a pleasure vehicle under § 27-14-601(a)(1) that the entity owns and uses in its business operations in the state with the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration within thirty (30) calendar days from the start of business in the state.

(ii) If an entity began transacting or conducting business in the state before July 31, 2009, the entity shall have thirty (30) calendar days to comply with this subsection.

(B)(i) If a court of competent jurisdiction finds that an entity has failed to comply with subdivision (c)(2)(A) of this section, the court may assess a civil penalty against the entity not to exceed ten thousand dollars (\$10,000).

(ii) Proof that an employee or owner of the entity was found guilty of a violation of subdivision (c)(2)(A) of this section shall establish a prima facie case that the entity failed to comply with subdivision (c)(2)(A) of this section.

(iii) A penalty assessed under this subdivision (c)(2)(B) shall become a lien against the property owned by the entity in the state.

(iv) An entity may appeal the assessment of a civil penalty under this subdivision (c)(2)(B) to a circuit court of competent jurisdiction.

(d) A person who pleads guilty or nolo contendere to or is found guilty of operating a motor vehicle that is not in compliance with this section is guilty of a violation and punishable as provided under § 5-4-201(c).

**History.** Acts 1993, No. 445, § 42; added (c) and (d), and made minor stylistic changes.  
1999, No. 912, § 2; 2009, No. 945, § 1.

**Amendments.** The 2009 amendment

## **27-14-726. Mini-trucks.**

(a) As used in this section:

(1) "Low pressure tire" means a pneumatic tire six inches (6") or more in width designed for use on a wheel with a rim diameter of twelve inches (12") or less and utilizing an operating pressure of ten pounds per square inch (10 p.s.i.) or less as recommended by the vehicle manufacturer; and

(2)(A) "Mini-truck" means a motor vehicle that is:

(i) At least forty-eight inches (48") in width;

(ii) Not more than one hundred thirty-five inches (135") in length including the bumper;

(iii) At least one thousand five hundred pounds (1,500 lbs.) in unladen weight, including fuel and fluids;

(iv) Equipped with:

(a) Four (4) or more low pressure tires or pneumatic rubber tires that are used on motor vehicles;

(b) A steering wheel;

(c) Seating for at least two (2) people to sit side-by-side in the front seating area;



(d) A fully enclosed metal or metal-reinforced cab with glass and mirrors that complies with §§ 27-37-301 — 27-37-305 regarding safety glass and mirrors;

(e) Metal doors with functioning handle locks that are similar to the handle locks on motor vehicles;

(f) Head lamps as required under § 27-36-209;

(g) Tail lamps as required under § 27-36-215;

(h) Signal lamps as provided under § 27-36-216;

(i) A working horn as required under § 27-37-202(a);

(j) Seat belts as provided under § 27-37-701 et seq.; and

(k) Front and rear bumpers.

(B) A mini-truck may be equipped with a bed or cargo box for hauling materials.

(C) A mini-truck is not an all-terrain vehicle under § 27-20-201 et seq. and § 27-21-101 et seq.

(b)(1) The owner of a mini-truck may register and license it as a Class Eight farm vehicle under § 27-14-601(a)(3)(H).

(2) In the application to register the mini-truck, the owner of the mini-truck shall provide:

(A) The same affidavit as required under § 27-14-601(a)(3)(H)(v) and § 27-14-601(a)(3)(H)(xi);

(B) Proof of insurance as required under the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., and § 27-22-101 et seq.; and

(C) Proof of ownership that is in the English language, to include a bill of sale and an export certificate or a title.

(3) The fees for registering and licensing a mini-truck shall be the same as for registering a Class Eight farm vehicle under § 27-14-601(a)(3)(H)(ii)(a).

(4) The driver of a mini-truck shall have a valid driver's license.

(5) The driver of a mini-truck that is registered and licensed under this section shall comply with and is subject to the same penalties for violating the rules of the road as provided under § 27-51-101 et seq.

(6) A mini-truck is a motor vehicle for the purposes of minimum insurance liability under the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., and § 27-22-101 et seq.

(c) A mini-truck shall not be operated on an interstate highway.

(d) A mini-truck shall not be operated on a road or highway if:

(1) The operation of mini-trucks is prohibited;

(2) The road is a controlled-access highway;

(3) The posted speed limit is more than fifty-five (55) miles per hour;

or

(4) The mini-truck cannot maintain a speed equal to the posted speed limit.

**History.** Acts 2009, No. 146, § 3.

**27-14-727. Certificate of title with beneficiary.**

(a) As used in this section:

(1)(A) “Beneficiary” means one (1) individual who is designated to become the owner of a vehicle upon the death of the current owner as indicated on the certificate of title issued under this chapter.

(B) “Beneficiary” does not include a business, firm, partnership, corporation, association, or any other legally created entity;

(2) “Certificate of title with beneficiary” means a certificate of title for a vehicle issued under this chapter that indicates the present owner of the vehicle and designates a beneficiary as provided under this section;

(3)(A) “Owner” means an individual who holds legal title of a vehicle and can include more than one (1) person but not more than three (3) persons.

(B) “Owner” does not include a business, firm, partnership, corporation, association, or any other legally created entity; and

(4) “Vehicle” means a motorized or nonmotorized piece of equipment with wheels that is:

(A) Primarily used to transport persons or property on the streets, roads, or highways; and

(B) Required to be registered, licensed, and titled by the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration under this chapter.

(b) If the owner or joint owners want to transfer a vehicle upon death by operation of law, the owner or joint owners may request that the Office of Motor Vehicle issue a certificate of title with beneficiary that includes a directive to the Office of Motor Vehicle to transfer the certificate of title upon the death of the owner or upon the death of all joint owners to the beneficiary named on the face of the certificate of title with beneficiary.

(c)(1) The owner of a vehicle may submit a transfer on death application to the Office of Motor Vehicle to request the issuance of a certificate of title with beneficiary or a change to a certificate of title with beneficiary.

(2) The owner shall provide the following information in the application:

(A) Whether the applicant seeks to add, remove, or change a beneficiary;

(B) The full legal name of the beneficiary;

(C) The social security number of the beneficiary;

(D) The address of the beneficiary;

(E) The vehicle identification number of the vehicle;

(F) The year, make, model, and body type of the vehicle;

(G) The printed full legal name of the owner of the vehicle;

(H) The Arkansas driver’s license or identification card number for the owner of the vehicle; and

(I) The signature of the owner of the vehicle.

(3) The owner shall include the following with the application:

(A) The certificate of title for the vehicle issued under this chapter;

(B) The title application fee of four dollars (\$4.00) as provided under § 27-14-705(c) and the title fee under § 27-14-602(b); and

(C) The certificate of title with beneficiary processing fee of ten dollars (\$10.00).

(4)(A) The fee remitted under subdivision (c)(3)(C) of this section shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration.

(B) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(C) The fee shall not be considered or credited to the Office of Motor Vehicle as direct revenue.

(d)(1) The Office of Motor Vehicle shall not issue a certificate of title with beneficiary to an owner of a vehicle if:

(A) The vehicle is encumbered by a lien; or

(B) The owner holds his or her interest in the vehicle as a tenant in common with another person.

(2) If a lien request is made for a beneficiary title, the beneficiary shall be removed and the lien added.

(e) The certificate of title with beneficiary issued by the Office of Motor Vehicle shall include after the name of the owner the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(f) During the lifetime of the sole owner or before the death of the last surviving joint owner:

(1) The signature or consent of the beneficiary is not required for any transaction relating to the vehicle for which a certificate of title with beneficiary has been issued; and

(2) The certificate of title with beneficiary is revoked by:

(A) Selling the vehicle with proper assignment and delivery of the certificate of title to another person; or

(B) Filing an application with the Office of Motor Vehicle to remove or change a beneficiary as provided under subsection (c) of this section.

(g) Except as provided in subsection (f) of this section, the designation of the beneficiary in a certificate of title with beneficiary shall not be changed or revoked:

(1) By will or any other instrument;

(2) Because of a change in circumstances; or

(3) In any other manner.

(h) The interest of the beneficiary in a vehicle on the death of the sole owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment, or security interest to which the owner of the vehicle was subject during his or her lifetime.

(i)(1)(A) Upon the death of the owner, the Office of Motor Vehicle shall issue a new certificate of title for the vehicle to the surviving owner or, if no surviving owner, to the beneficiary if the surviving owner or beneficiary presents the following:



(i) Proof of death of the owner that includes a death certificate issued by the state or a political subdivision of the state;

(ii) Surrender of the outstanding certificate of title with beneficiary; and

(iii) Application and payment of the title application fee and title fee.

(B) A certificate of title issued under this subsection will be subject to any existing security interest.

(2) If the surviving owner or beneficiary chooses, he or she can submit a completed certificate of title with beneficiary application as provided under this section, along with the ten dollar (\$10.00) processing fee, at the time of the application for a new title under this subsection.

(3) The transfer under this subsection is a transfer by operation of law and § 27-14-907 applies to the extent practicable and not in conflict with this section.

(j) The transfer of a vehicle upon the death of the owner under this section is not testamentary and is not subject to administration under Title 28 of the Arkansas Code.

(k) The procedures and fees under § 27-14-720 shall apply for obtaining a duplicate title with beneficiary.

(1)(1) The Office of Motor Vehicle may promulgate rules for the administration of this section.

(2) If rules are promulgated, the Office of Motor Vehicle shall consult with the Arkansas State Game and Fish Commission about the rules.

**History.** Acts 2011, No. 335, § 4.

## SUBCHAPTER 8 — LIENS AND ENCUMBRANCES

### 27-14-801. Compliance required.

#### CASE NOTES

#### Priority of Rights.

Chapter 7 debtor maliciously injured farm equipment that was pledged as collateral for various bank loans within the meaning of 11 U.S.C.S. § 523(a)(6) because even though the bank's security interest therein was not perfected by the placement of evidence of the lien on the

certificate of title per § 4-9-310(b), § 4-9-311, and § 27-14-801 et seq., the security interest was still valid as between the parties to the agreement per § 4-9-317(a)(2)(A) and § 4-9-322. *Southern Bancorp South v. Richmond (In re Richmond)*, 430 B.R. 846 (Bankr. E.D. Ark. 2010).

### 27-14-805. Constructive notice.

#### CASE NOTES

#### Generally.

The language of this section addresses perfection when issuing a new certificate of title but this statute does not provide

that failure to issue a new certificate of title pursuant to § 27-14-908 results in the lien being unperfected. *In re Johnson*, 407 B.R. 364 (Bankr. E.D. Ark. 2009).

## SUBCHAPTER 9 — TRANSFERS OF TITLE AND REGISTRATION

### SECTION.

27-14-917. Time requirements for pay-

ment of lien or encumbrance.

### 27-14-903. Registration by transferee — Title retention notes.

#### CASE NOTES

**Cited:** *Stufflebeam v. Harris*, 521 F.3d 884 (8th Cir. 2008).

### 27-14-908. Assignment by lienholder.

#### CASE NOTES

#### Generally.

Uniform Commercial Code (UCC) adopted by the General Assembly and the commentary state that the language used in this section should be read as permissive and the overall scheme of the UCC should be followed if at all possible; the general rule under the UCC is that no further action need be taken to continue perfection when dealing with assignments. Reading the UCC and the Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft Act, § 27-14-101 et seq, together, the U.S. Bankruptcy Court for the Eastern District of Arkansas cannot infer that the General Assembly meant that failure to comply with this section would result in an assigned lien in a motor vehicle being unperfected; Arkansas law does not require the assignee's name to appear on the certificate of title to

maintain perfection of an existing lien in a vehicle. In *re Johnson*, 407 B.R. 364 (Bankr. E.D. Ark. 2009).

This section, which addresses assignments of vehicle liens, is not in subchapter 8 (§§ 27-14-801 — 27-14-807). This section is found in subchapter 9 which does not deal with or even mention the issue of perfection; rather, it gives a lien holder the right to assign a lien and requires the Office of Motor Vehicle to issue a new certificate of title upon receiving the assigned certificate of title. In *re Johnson*, 407 B.R. 364 (Bankr. E.D. Ark. 2009).

Where a creditor properly perfected its lien in a mobile home, an assignee of that lien need not take any further action for the lien to remain perfected under Arkansas law. *Williams v. JP Morgan Chase Bank USA, N.A.* (In *re Granderson*), — B.R. —, 2009 Bankr. LEXIS 3485 (Bankr. E.D. Ark. Nov. 4, 2009).

### 27-14-917. Time requirements for payment of lien or encumbrance.

(a) As used in this section:

(1) "Customer" means a person who trades in or otherwise provides a vehicle to a motor vehicle dealer for resale;

(2) "Motor vehicle dealer" means a motor vehicle dealer as defined in § 23-112-103 or a used motor vehicle dealer as defined in § 23-112-103; and

(3) "Subsequent purchaser" means a person who buys the vehicle that was provided to the motor vehicle dealer as a trade-in or for resale by the customer.

(b)(1) If a motor vehicle dealer takes possession of a vehicle for purposes of resale and there is an outstanding lien or encumbrance on the vehicle, the motor vehicle dealer shall in good faith tender full

payment on the outstanding lien or encumbrance within ten (10) business days after the motor vehicle dealer takes possession of the vehicle from the customer.

(2) This time period may be shortened if the customer and the motor vehicle dealer agree to a shorter time period.

(c)(1) If the motor vehicle dealer fails to act in good faith in tendering full payment for the outstanding lien or encumbrance within ten (10) business days or within the time period agreed to by the motor vehicle dealer and the customer under subdivision (b)(2) of this section, the customer shall have an absolute right to cancel the contract for sale between the customer and the motor vehicle dealer.

(2) If the contract for sale is cancelled pursuant to subdivision (c)(1) of this section, the motor vehicle dealer shall be responsible for late fees, finance charges, or any financial penalty that is required to be made by the customer as part of the existing lien or encumbrance.

(d) If the motor vehicle dealer sells the vehicle to a subsequent purchaser without first tendering full payment for the outstanding lien or encumbrance, the subsequent purchaser who buys the vehicle subject to the existing lien or encumbrance shall have an absolute right to cancel the contract for sale between the subsequent purchaser and the motor vehicle dealer.

**History.** Acts 2009, No. 455, § 1.

## SUBCHAPTER 10 — PERMANENT AUTOMOBILE LICENSING ACT

### SECTION.

27-14-1012. Applications for registrations or renewals.

27-14-1013. Renewals of registration.

27-14-1014. Application forms for renewals of registration.

### SECTION.

27-14-1021. Annual notification of requirements.

## 27-14-1005. Failure to affix or display license plates, etc.

### CASE NOTES

**Cited:** *Stufflebeam v. Harris*, 521 F.3d 884 (8th Cir. 2008).

## 27-14-1012. Applications for registrations or renewals.

(a)(1) An applicant may apply, in person or by mail, for the issuance of permanent license plates to the revenue office in the county where he or she resides or to the Director of the Department of Finance and Administration.

(2) After the issuance of a permanent license plate, an applicant may apply for renewal by:

(A) Transmitting the required documents and the registration fee by mail to the applicant's local revenue office or to the director;



(B) Transmitting the required information electronically using the electronic online registration process provided by the Department of Finance and Administration and authorizing the registration fee to be charged to the applicant's credit card; or

(C) Providing the required information using the telephone registration process provided by the department and authorizing the registration fee to be charged to the applicant's credit card.

(b)(1) Not less than thirty (30) days before the expiration of the license, the director shall notify the owner of a registered motor vehicle subject to this subchapter.

(2) The notice shall be sent by:

(A) Regular mail to the most recent address of the owner of the motor vehicle as the owner's name and address appear on the records of the Office of Motor Vehicle as the address provided at the last registration or reported as a change of address as required by § 27-14-1019; or

(B) Email to the email address provided to the director by the motor vehicle owner in connection with a consent to receive the annual motor vehicle registration renewal notice by email.

(c) A proper application for registration or renewal by mail must be postmarked not later than fifteen (15) days before the date for renewal to allow time for processing.

(d) The director is authorized to impose a first class postage fee for handling the issuance of all new licenses or renewals by mail and to impose an additional fee to recover any credit card fees charged by credit card companies.

**History.** Acts 1967, No. 465, § 16; A.S.A. 1947, § 75-133.26; Acts 1991, No. 1005, § 2; 1993, No. 1261, § 3; 1999, No. 461, § 2; 2011, No. 67, § 1.

**Amendments.** The 2011 amendment substituted "to the revenue office" for "or renewal of license collector" in (a)(1); deleted "transmitting copies of the required documents by facsimile machine over the telephone lines and by authorizing the registration fee and any additional han-

dling fee imposed to be charged to his or her credit card" in (a)(2); added (a)(2)(A) through (C); added (b)(2); deleted "at the last address of the owner of the motor vehicle as such owner's name and address appear on the records of the Office of Motor Vehicle, but the director is not required to go beyond the face of the last registration statement" at the end of (b)(1); and deleted (c)(2).

## **27-14-1013. Renewals of registration.**

The owner of any permanent license plate issued by the Director of the Department of Finance and Administration may renew his or her registration:

(1) In person or by mail at a county revenue office or with the director;

(2) Electronically, using the electronic online registration process provided by the Department of Finance and Administration; or

(3) By telephone, using the telephone registration process provided by the department.

**History.** Acts 1967, No. 465, § 7; A.S.A. 1947, § 75-133.17; Acts 1991, No. 1005, § 3; 2011, No. 67, § 2.

**Amendments.** The 2011 amendment subdivided part of the former paragraph as (1); added (2) and (3); and, in (1),

deleted “or, where available, by facsimile machine transmission during any day from forty-five (45) days prior to the date on which his or her registration shall expire” following “or with the director” and deleted the last sentence.

## **27-14-1014. Application forms for renewals of registration.**

(a)(1) The Director of the Department of Finance and Administration shall send application forms for all renewals of registration under this subchapter by:

(A) Regular mail sent to the most recent address of the owner of the motor vehicle as the owner’s name and address appear on the records of the Office of Motor Vehicle; or

(B) Email sent to the address provided to the director by the motor vehicle owner in connection with a consent to receive the annual motor vehicle registration renewal notice and application forms by email.

(2) The director shall not be required to go beyond the face of the last registration.

(b) The failure of an owner to receive notice of expiration of his or her motor vehicle license shall not be construed as an extenuating circumstance for the failure of a motor vehicle owner to renew his or her license on time.

**History.** Acts 1967, No. 465, § 20; A.S.A. 1947, § 75-133.30; Acts 2011, No. 67, § 3.

**Amendments.** The 2011 amendment, in (a)(1), substituted “shall send” for “shall

mail” and “by” for “to the last address of the owner of the motor vehicle as the owner’s name and address appear on the records of the Office of Motor Vehicle”; and added (a)(1)(A) and (B).

## **27-14-1021. Annual notification of requirements.**

(a) The Director of the Department of Finance and Administration shall send to each vehicle owner in this state the following information:

(1) Notification of the requirement that each vehicle must be assessed and personal property taxes must be paid annually;

(2) Notification of the procedure and time period for annual assessment of personal property;

(3) Notification of the requirement that proof of liability insurance is required and must be maintained at all times in the vehicle; and

(4) Notification of the penalties contained in Arkansas law for:

(A) Failure to assess the vehicle or pay personal property taxes due;

(B) Failure to maintain liability insurance coverage on the vehicle; and

(C) Operation of an unsafe vehicle.

(b) The director may comply with the requirements set forth in subsection (a) of this section by including the information in the annual vehicle registration renewal notice sent to each vehicle owner by:

- (1) Regular mail; or
- (2) If the motor vehicle owner has given his or her consent, email.
- (c) The director shall also cause to be displayed, in conspicuous fashion, at each revenue office in this state, the information set forth in subsection (a) of this section.

**History.** Acts 1997, No. 974, § 17; 2011, No. 67, § 4.

**Amendments.** The 2011 amendment, in the introductory language of (a), deleted “From and after January 1, 1998” from the beginning and substituted “send” for “cause to be mailed”; added “by” at the end of the introductory language of (b); added (b)(1) and (2); inserted “be” in (c); and deleted (d).

SUBCHAPTER 16 — MANUFACTURED HOMES AND MOBILE HOMES

SECTION.  
27-14-1601. Definitions.

27-14-1601. Definitions.

- As used in this subchapter:
- (1) “Manufactured home” means a factory-built structure:
    - (A) Produced in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and
    - (B) Designed to be used as a dwelling unit; and
  - (2) “Mobile home” means a structure:
    - (A) Built in a factory before the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.; and
    - (B) Designed to be used as a dwelling unit.

**History.** Acts 1973, No. 176, § 1; A.S.A. 1947, § 75-132.2; Acts 2001, No. 1118, § 1; 2005, No. 1991, § 6; 2009, No. 317, § 2.

**Amendments.** The 2009 amendment rewrote the section.

SUBCHAPTER 17 — PLATES FOR MANUFACTURERS, TRANSPORTERS, AND DEALERS

SECTION.  
27-14-1701. Operation of vehicles under special plates.  
27-14-1702. Application for and issuance of certificates and special plates.  
27-14-1703. Expiration of special plates.  
27-14-1704. Dealer’s extra license plates.

SECTION.  
27-14-1705. Temporary preprinted paper buyer’s tags.  
27-14-1706. Vehicles provided for purposes of demonstration or for repair customers.  
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**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

Acts 2009, No. 756, § 25: Apr. 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly



of the State of Arkansas that motor vehicle dealers are experiencing economic difficulties related to the state of the national economy and the motor vehicle industry in particular; that an unprecedented number of motor vehicle dealers may terminate their franchises as a result of these economic conditions; and that this act is immediately necessary to assist dealers that are facing possible termination of their franchise. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 351, § 6: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the changes in this act are necessary regarding the placement of temporary buyer's tags to provide for better law enforcement; that clarification is necessary to include motor-cycle dealers, motor-driven cycle dealers, and motor home dealers under the definition of dealer; and that this act is necessary to ensure that motor vehicles on the roads are properly tagged after purchase. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

### **27-14-1701. Operation of vehicles under special plates.**

(a) A manufacturer or dealer owning any vehicle of a type otherwise required to be registered under this chapter may operate or move it upon the highways solely for purposes of transporting it without registering each vehicle, upon condition that any such vehicle display a special plate or temporary preprinted paper tag and any correlating stickers that are to be placed on the preprinted paper tag issued to the owner as provided in this subchapter.

(b)(1) A transporter may operate or move any vehicle of like type upon the highways solely for the purpose of delivery, upon displaying a special plate issued to him or her as provided in § 27-14-1806.

(2) The transporter shall submit proof of his or her status as a bona fide transporter as may reasonably be required by the Office of Motor Vehicle.

(c) The provisions of this subchapter shall not apply to work or service vehicles owned by a manufacturer, transporter, or dealer.

(d)(1) The Director of the Department of Finance and Administration shall provide the specifications, form, and color of the special temporary preprinted paper tag and any correlating stickers that are to be placed on the preprinted paper tag required under this section.

(2)(A) Temporary preprinted paper tags issued to manufacturers or dealers for transport purposes shall have the following information printed on them:

- (i) The date of expiration;
- (ii) The vehicle year, make, and model;
- (iii) The vehicle identification number;
- (iv) The name of the issuing dealer; and
- (v) Other information that may be required by the office.

(B) In addition, the expiration date of the preprinted paper tag shall be shown in ink on the tag in a place to be determined by the office.

(C) The expiration date shall be covered by a sticker for added security.

(e) In addition to any other penalty prescribed by this chapter, a dealer, manager, sales manager, or salesperson of the dealer, or manufacturer who pleads guilty or nolo contendere to or is found guilty of the misuse of a special temporary preprinted paper tag and any correlating stickers that are to be placed on the tag and issued under this section or of allowing anyone else to misuse a special temporary preprinted paper tag, and the correlating stickers that are to be placed on the tag shall be fined not more than:

- (1) Two hundred fifty dollars (\$250) for the first offense;
- (2) Five hundred dollars (\$500) for the second offense; and
- (3) One thousand dollars (\$1,000) for the third offense and subsequent offenses.

**History.** Acts 1949, No. 142, § 62; A.S.A. 1947, § 75-162; Acts 2005, No. 1929, § 2; 2009, No. 484, § 2.

**Amendments.** The 2009 amendment substituted “preprinted paper tag and any correlating stickers that are to be placed on the preprinted paper tag” for “card-board tag” in four places; inserted (b)(2), redesignated the remaining text accordingly, and substituted “§ 27-14-1806” for

“this subchapter” in (b)(1); inserted (d)(2) and redesignated the remaining text; subdivided (e), substituted “Five” for “not more than five” in (e)(2), and substituted “One thousand” for “and not more than one thousand” in (e)(3); and made related and minor stylistic changes.

**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

## **27-14-1702. Application for and issuance of certificates and special plates.**

(a)(1) A manufacturer or dealer may make application to the Office of Motor Vehicle, upon the appropriate form, for a certificate containing a general distinguishing number and for one (1) or more pairs of special plates, single special plates, or special temporary preprinted paper tags, as appropriate, subject to §§ 27-14-1701 and 27-14-1704, to various types of vehicles subject to registration under this chapter.

(2) The applicant shall also submit proof of his or her status as a bona fide manufacturer or dealer, as required by the office.

(b)(1) The office, upon granting the application for one (1) or more pairs of special plates or single special plates, shall issue to the applicant a certificate containing the applicant’s name and address and the general distinguishing number assigned to the applicant.

(2) A certificate containing the applicant’s name and address and the general distinguishing number assigned to the applicant is not required to be issued upon granting an application for one (1) or more special temporary preprinted paper tags.

(c)(1) The office shall also issue a special plate, plates, or special temporary preprinted paper tags as applied for, which shall have

displayed thereon the general distinguishing number assigned to the applicant.

(2) Each plate, pair of plates, or special temporary preprinted paper tags issued shall also contain a number or symbol identifying it or them from every other plate, pair of plates, or special temporary preprinted paper tags bearing the same general distinguishing number.

**History.** Acts 1949, No. 142, § 63; A.S.A. 1947, § 75-163; Acts 2005, No. 1929, § 3; 2009, No. 484, § 3.

**Amendments.** The 2009 amendment substituted “preprinted paper” for “cardboard” throughout the section; subdivided (a) and deleted “transporter” following “manufacturer” in (a)(1) and (a)(2); in-

serted (b)(2), redesignated the remaining text accordingly, and inserted “for one (1) or more pairs of special plates or single special plates” in (b)(1); and made related and minor stylistic changes.

**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

### 27-14-1703. Expiration of special plates.

(a)(1) Every special plate, excluding temporary preprinted paper tags, issued under this subchapter shall expire at 12:00 midnight on December 31 of each year unless the Commissioner of Motor Vehicles provides by rule a staggered method of annual expiration.

(2) A new plate for the ensuing year may be obtained by the person to whom any such expired plate was issued, upon application to the Office of Motor Vehicle and payment of the fee provided by law.

(b) In lieu of providing a new special plate upon the expiration of the special plate issued under this subchapter, the commissioner may by rule provide for the issuance of permanent special plates that are renewed using an alternate method.

**History.** Acts 1949, No. 142, § 64; A.S.A. 1947, § 75-164; Acts 2005, No. 661, § 1; 2009, No. 484, § 4.

**Amendments.** The 2009 amendment inserted “excluding temporary preprinted

paper tags” in (a)(1), and made related changes.

**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

### 27-14-1704. Dealer’s extra license plates.

(a) Each dealer as defined in § 27-14-601(a)(6) shall furnish the Director of the Department of Finance and Administration with a list of each manager, sales manager, and salesperson authorized to operate a motor vehicle to which a dealer’s extra license plate issued to the dealer has been or will be attached:

(1) Upon initial application for dealer’s extra license plates as provided in § 27-14-1702; and

(2) Upon renewal of dealer’s extra license plates as provided in § 27-14-1703.

(b) The dealer’s extra license plate may be used only by the dealer, manager, or salesperson of the dealer and only for the following purposes:

(1) To drive to and from work;



(2) For business or personal trips inside or outside the dealer's county of residence;

(3) To transport the vehicle; or

(4) To demonstrate the vehicle.

(c) Neither the dealer's extra license plate issued under this section nor the dealer's master plate issued under § 27-14-601(a)(6) shall be used for purposes of allowing a prospective buyer to test drive a vehicle unless the dealer, manager, or salesperson of the dealer is present in the vehicle.

(d) In addition to any other penalty prescribed by this chapter, any dealer, manager, salesperson, or employee of a dealer who pleads guilty or nolo contendere to or who is found guilty of the misuse of a dealer's extra license plate or dealer's master plate or of allowing anyone else to misuse a dealer's extra license plate or dealer's master plate shall be fined not more than two hundred fifty dollars (\$250) for the first offense, not more than five hundred dollars (\$500) for the second offense, and not more than one thousand dollars (\$1,000) for the third and subsequent offenses.

(e)(1)(A) In addition to any other penalty prescribed by this chapter, the director may suspend some or all dealer's extra license plates issued to a dealer if the director determines that the dealer or any manager, sales manager, or salesperson of the dealer either misused a dealer's extra license plate or allowed the use of a dealer's extra license plate by a person who is not authorized by this section to use a dealer's extra license plate.

(B) A suspension of the dealer's extra license plates under this section does not require that the dealer's master license plate be suspended.

(C) The director shall:

(i) Notify the dealer in writing of a suspension of the dealer's extra license plates that is authorized under this section; and

(ii) Provide information regarding the misuse or unauthorized use upon which the suspension was based in the notice.

(D) The dealer's extra license plates shall be suspended for:

(i) Six (6) months for the first misuse or unauthorized use of the dealer's extra license plates; or

(ii) One (1) year for any subsequent misuse or unauthorized use.

(2)(A) Any dealer who desires a hearing on the suspension shall notify the director in writing within twenty (20) days after receipt of the notice of suspension.

(B) A hearing officer appointed by the director shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration in the county of the dealer's principal place of business, unless the director and the dealer agree to another location for the hearing or agree that the hearing shall be held by telephone.

(C) Hearings conducted under this section shall be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(D) The hearing officer shall render his or her decision in writing to modify, reverse, or affirm the suspension of the dealer's extra license plates based upon the evidence presented at the hearing and shall serve a copy of the decision on the dealer.

(3)(A)(i) If the decision sustains, in whole or in part, the suspension of the dealer's extra license plates, the dealer may file suit within thirty (30) days of receipt of the decision in the Pulaski County Circuit Court or the circuit court of the county of the dealer's principal place of business.

(ii) The dealer shall serve a copy of the petition on the director.

(iii) The appeal will not operate as a stay of the order of suspension that will remain in effect and be terminated only in the event a decision reversing the suspension is issued by the circuit court.

(B) An appeal from the circuit court shall be in accordance with the laws governing appeals.

**History.** Acts 2005, No. 1929, § 4; **Amendments.** The 2011 amendment added (e).  
2011, No. 606, § 1.

### **27-14-1705. Temporary preprinted paper buyer's tags.**

(a)(1)(A) A person who buys a motor vehicle from a licensed dealer shall be required to obtain one (1) temporary preprinted paper buyer's tag for the vehicle and any correlating stickers that are to be placed on the tag.

(B) The preprinted paper buyer's tag may be issued by an approved licensed dealer, vendor, or the Office of Motor Vehicle.

(2)(A) A person who buys a motor vehicle from a licensed dealer that cannot issue temporary preprinted paper buyer's tags shall:

(i) Obtain the preprinted paper buyer's tag and stickers within ten (10) calendar days after the date of purchase of the vehicle from an approved vendor or the Office of Motor Vehicle;

(ii) Provide to the vendor or the Office of Motor Vehicle a copy of the bill of sale or other documentation necessary to verify the dealer's name, the buyer's name, the date of sale, the motor vehicle's vehicle identification number, and the make and model of the vehicle; and

(iii) Maintain a copy of the bill of sale for the motor vehicle in the vehicle until the buyer obtains the preprinted paper buyer's tag and stickers.

(B) A person who fails to obtain a preprinted paper buyer's tag and stickers within ten (10) calendar days of the date of purchase of the vehicle is subject to the fines in this section.

(b)(1) The temporary preprinted paper buyer's tag is valid for the operation of the vehicle until the earlier of:

(A) The date on which the vehicle is registered; or

(B) The thirtieth day after the date of purchase.

(2)(A) If the date that a transferee of a motor vehicle must register the vehicle is extended under § 27-14-903(a)(2), the dealer may issue one (1) additional temporary preprinted paper buyer's tag to the

transferee, to expire thirty (30) days from the date that the additional temporary preprinted paper buyer's tag was issued.

(B)(i) If the dealer cannot issue preprinted paper buyer's tags, the transferee may obtain a temporary preprinted paper buyer's tag from the Office of Motor Vehicle.

(ii) The additional preprinted paper buyer's tag expires thirty (30) days from the date the additional tag was issued.

(c)(1)(A) The following information shall be printed by the dealer, the vendor, or the Office of Motor Vehicle on the face of the temporary preprinted paper buyer's tags:

(i) The actual date of sale;

(ii) The date of expiration;

(iii) The vehicle year, make, and model;

(iv) The vehicle identification number;

(v) The name of the issuing dealer; and

(vi) Other information required by the Office of Motor Vehicle.

(B) The expiration date of the preprinted paper buyer's tag shall be shown in ink on the preprinted paper buyer's tag in a place to be determined by the Office of Motor Vehicle, and the date shall be covered by a sticker for added security.

(2) A dealer who issues a temporary preprinted paper buyer's tag shall indicate on the bill of sale that a temporary preprinted paper buyer's tag was issued in order to facilitate collection of the fees required by this subchapter.

(d)(1)(A) The temporary preprinted paper buyer's tag issued under this section shall be placed at the location provided for the permanent motor vehicle license plate.

(B)(i) The temporary preprinted paper buyer's tag shall be covered by a translucent material that protects the temporary tag until the tag's expiration.

(ii) The translucent material covering the tag shall be approved by the Office of Motor Vehicle.

(C)(i) The information on the tag shall be visible and readable when viewing the temporary tag covered with the translucent material.

(ii) The translucent material shall cover the tag in the manner approved by the Office of Motor Vehicle.

(D) A dealer who issues a temporary preprinted paper buyer's tag shall insert the tag in the translucent material and attach the tag to each vehicle the dealer sells.

(2) If a preprinted paper buyer's tag placed at the location provided for the permanent motor vehicle license plate becomes damaged or destroyed, the motor vehicle purchaser shall be required to register the vehicle under § 27-14-705 or obtain a replacement preprinted paper buyer's tag from the original issuing dealer or from the Office of Motor Vehicle.

(3) The replacement preprinted paper buyer's tag shall expire on the expiration date of the original preprinted paper buyer's tag.



(e) The Director of the Department of Finance and Administration shall provide the specifications, form, and color of the temporary preprinted paper buyer's tag.

(f)(1)(A) The buyer shall be responsible for paying to the director a fee to be set by the director, which shall not exceed two dollars and fifty cents (\$2.50), for each temporary preprinted paper buyer's tag and any correlating stickers the buyer receives.

(B) This fee shall be collected at the time the buyer registers the vehicle under § 27-14-705.

(2) The gross receipts or gross proceeds derived from the sale or issuance of temporary preprinted paper buyer's tags under this section shall be exempt from the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and any other state or local tax administered under those chapters.

(3) All fees collected by the director under this section shall be deposited into the State Treasury, and the Treasurer of State shall credit them as general revenues to the General Revenue Fund Account of the State Apportionment Fund.

(g)(1) For each temporary preprinted paper buyer's tag provided to a buyer, the issuer shall retain documentation containing:

(A) The dealer's name and master license plate number;

(B) The buyer's name;

(C) The date the temporary preprinted paper buyer's tag was issued;

(D) The vehicle's vehicle identification number;

(E) The make and model of the vehicle; and

(F) The expiration date of the temporary preprinted paper buyer's tag.

(2) An issuer of preprinted paper buyer's tags shall provide the documentation required to be retained by subdivision (g)(1) of this section to the Office of Motor Vehicle on the date of sale for entry into the vehicle temporary tag database provided in § 27-14-1708.

(h)(1) Any dealer or approved vendor or any manager, salesperson, or employee of the dealer or vendor who pleads guilty or nolo contendere to or is found guilty of the misuse of a temporary preprinted paper buyer's tag or of allowing anyone else to misuse a temporary preprinted paper buyer's tag shall be fined not more than:

(A) Two hundred fifty dollars (\$250) for the first offense;

(B) Five hundred dollars (\$500) for the second offense; and

(C) One thousand dollars (\$1,000) for the third and subsequent offenses.

(2) A buyer who pleads guilty or nolo contendere to or is found guilty of failing to obtain a temporary buyer's tag shall be fined not more than twenty-five dollars (\$25.00).

(3) A buyer who pleads guilty or nolo contendere to or is found guilty of altering a preprinted paper buyer's tag or the fraudulent use of a preprinted paper buyer's tag shall be fined not more than:

- (A) Two hundred fifty dollars (\$250) for the first offense;
- (B) Five hundred dollars (\$500) for the second offense; and
- (C) One thousand dollars (\$1,000) for the third and subsequent offenses.

(i) This section does not apply to an owner or lessee of a registered motor vehicle who elects to display a license plate on a replacement motor vehicle under § 27-14-902(a)(3)(B).

**History.** Acts 2005, No. 1929, § 4; 2009, No. 484, § 5; 2009, No. 756, § 20; 2009, No. 780, § 1; 2011, No. 351, § 1.

**A.C.R.C. Notes.** Acts 2011, No. 351, § 5, provided: “(a) The Revenue Division of the Department of Finance and Administration may enter into or make agreements, arrangements, or declarations necessary to carry out the provisions of this act.

“(b) The Department of Finance and Administration may compensate the contractor who will provide for the administration and security provisions of the preprinted paper buyer’s tag under this act in an amount to be agreed upon between the department and the contractor, not to exceed two dollars and fifty cents (\$2.50) per tag.

“(c) The Department of Finance and Administration may promulgate rules and forms for the administration of this act.”

**Amendments.** The 2009 amendment by No. 484 substituted “preprinted paper” for “cardboard” throughout the section; rewrote (a), which read: “A dealer shall issue to a person who buys an unregistered vehicle one (1) temporary cardboard buyer’s tag for the vehicle”; inserted (b)(2)(B), redesignated the remaining text accordingly, and substituted “§ 27-14-903(a)(2)” for “§ 27-14-903(a)(1)” in (b)(2)(A); rewrote (c) and (d); deleted (e), which read: “The dealer is responsible for the safekeeping and distribution of each temporary cardboard buyer’s tag that the dealer obtains from the director,” and redesignated the subsequent subsections; rewrote (f)(1); inserted (g)(2), redesignated the remaining text, substituted “issuer” for “dealer” in (g)(1), and inserted

“and master license plate number” in (g)(1)(A); rewrote (h); and made related and minor stylistic changes.

The 2009 amendment by No. 756 inserted (b)(3), (b)(4), (i), and present (j)(2), and redesignated accordingly; inserted “is guilty of a violation under § 5-1-108 and” in (j)(1); and made minor stylistic changes.

The 2009 amendment by No. 780 inserted “so as to be clearly legible from a distance of one hundred feet (100’) during daylight hours” in (c)(1), and inserted (c)(3); inserted (d)(2) through (d)(4); and redesignated the remaining text of (d) accordingly.

The 2011 amendment substituted “Office of Motor Vehicle” for “office” throughout the section; substituted “ten (10) calendar” for “five (5) business” in (a)(2)(A)(i) and (a)(2)(B); deleted “the time” following “until” in (a)(2)(A)(iii); redesignated former (d)(1)(A) and (B) as (d)(1)(A); deleted “on the inside rear window of the vehicle. For vehicles without a rear window, the preprinted paper buyer’s tag shall be placed” following “be placed” in (d)(1)(A); inserted (d)(1)(B) through (D); substituted “two dollars and fifty cents (\$2.50)” for “one dollar (\$1.00)” in (f)(1)(A); inserted “of this section” in (g)(2); added present (h)(2) and redesignated former (h)(2) as (h)(3); and, in (h)(3), deleted “failing to obtain a temporary preprinted paper buyer’s tag” following “guilty of,” substituted “the fraudulent use of” for “failing to display,” and deleted “within five (5) business days of the date of purchase of a motor vehicle” following “buyer’s tag.”

**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

**27-14-1706. Vehicles provided for purposes of demonstration or for repair customers.**

(a) A dealer may allow a prospective buyer or customer to drive an unregistered vehicle:

(1) To demonstrate or to allow a prospective buyer to test drive the vehicle for sale purposes for a period not to exceed seventy-two (72) hours; or

(2) As a loaner vehicle for a customer while the customer's vehicle is being repaired in the dealer's shop for a period not to exceed fourteen (14) calendar days.

(b)(1)(A) An approved dealer with the capability of issuing a temporary preprinted paper tag shall issue to the prospective buyer or customer one (1) temporary preprinted paper buyer's tag and any correlating stickers that are to be placed on the preprinted paper tag, in accordance with this section.

(B)(i) A licensed dealer who issues a temporary preprinted paper buyer's tag to a prospective buyer or customer shall place the preprinted paper tag at the location provided for the permanent motor vehicle license plate.

(ii) If a preprinted paper tag placed at the location provided for the permanent motor vehicle license plate becomes damaged or destroyed, the original dealer may issue a replacement preprinted paper tag that shall expire on the expiration date of the original buyer's tag.

(C) A licensed dealer that issues a preprinted paper tag shall provide any required documentation to the Office of Motor Vehicle on the date of the transaction for entry into the vehicle temporary tag database provided for in § 27-14-1708.

(D) The office shall provide the specifications, form, and color of the temporary preprinted paper tag.

(2)(A) A licensed dealer without the capability of issuing temporary preprinted paper tags shall issue to the prospective buyer or customer a test drive or loaner information sheet required by this section in lieu of the temporary preprinted paper tag.

(B) This sheet shall be maintained in the vehicle for the duration of time in which the prospective buyer or customer has possession of the vehicle.

(3) If the date on which the prospective buyer or customer is required to return the vehicle to the dealer falls on Saturday, Sunday, or a legal holiday on which the dealer is not open for business, then the prospective buyer or customer will have until the next succeeding business day that is not a Saturday, Sunday, or legal holiday to return the vehicle and still be in compliance with this section.

(c)(1) When a dealer provides a motor vehicle to a prospective buyer or customer under this section, the dealer shall complete and keep in his or her possession an information sheet containing:

(A) The year, make, and model of the vehicle;



- (B) The vehicle identification number;
- (C) The prospective buyer's or customer's name;
- (D) The time and date that the temporary preprinted paper tag or information sheet was issued to the prospective buyer or customer;
- (E) The reason the vehicle was furnished to the prospective buyer or customer; and
- (F) The length of time the prospective buyer or customer may retain the vehicle.

(2)(A) The Director of the Department of Finance and Administration shall provide the specifications, form, and color of the information sheet to be used by dealers under this subsection.

(B) Information sheets retained by the dealer under this subsection are subject to examination by the director at any reasonable time.

(d)(1) A temporary preprinted paper buyer's tag or information sheet is not required if the prospective buyer or customer is required to return the vehicle before the end of the business day upon which the vehicle was provided to the prospective buyer or customer, and it is not unlawful for a prospective buyer or customer to test drive an unregistered vehicle in the manner provided in this subsection.

(2) A dealer may issue temporary preprinted paper buyer's tags or use a dealer information sheet for the following purposes:

(A) To demonstrate or allow a prospective buyer to test drive a vehicle for a period not to exceed seventy-two (72) hours;

(B) For a loaner vehicle for a customer while the customer's vehicle is being repaired at the dealer's shop for a period not to exceed fourteen (14) calendar days;

(C) For transporting a vehicle not to exceed seventy-two (72) hours; or

(D) To test drive a vehicle to check its mechanical condition for a period not to exceed seventy-two (72) hours.

(3) The director shall design the test drive or loaner information sheet to be used by dealers under this subsection and shall make this information sheet available at all state revenue offices and on the website of the Department of Finance and Administration.

(4) A dealer shall be allowed to make and use photocopies of the test drive or loaner information sheet designed by the department in lieu of the original provided by the department.

(e) Any dealer who violates this section shall be fined the amount of twenty-five dollars (\$25.00) per violation.

**History.** Acts 2005, No. 1929, § 4; 2009, No. 484, § 6; 2011, No. 351, §§ 2, 3.

**A.C.R.C. Notes.** Acts 2011, No. 351, § 5, provided: "(a) The Revenue Division of the Department of Finance and Administration may enter into or make agreements, arrangements, or declarations necessary to carry out the provisions of this act.

"(b) The Department of Finance and Administration may compensate the contractor who will provide for the administration and security provisions of the preprinted paper buyer's tag under this act in an amount to be agreed upon between the department and the contractor, not to exceed two dollars and fifty cents (\$2.50) per tag.

“(c) The Department of Finance and Administration may promulgate rules and forms for the administration of this act.”

**Amendments.** The 2009 amendment, in (b), rewrote (b)(1), inserted (b)(2), and redesignated the subsequent subdivision accordingly; in (c), substituted “a motor vehicle” for “an unregistered vehicle” in (c)(1) and substituted “preprinted paper tag or information sheet” for “cardboard tag” in (c)(1)(D); substituted “preprinted paper buyer’s tag or information sheet” for “cardboard tag” in (d)(1); and made a minor stylistic change.

The 2011 amendment combined former (b)(1)(B)(i) and (ii) as (b)(1)(B)(i) and redesignated former (b)(1)(B)(iii) as (b)(1)(B)(ii); in (b)(1)(B)(i), deleted “in the rear window of the vehicle. If the vehicle does not have a rear window, the preprinted paper tag shall be placed” following “paper tag”; inserted “license plate” in (b)(1)(B)(ii); and rewrote (d)(2).

**Effective Dates.** Acts 2009, No. 484, § 8, provided: “This act becomes effective July 1, 2010.”

### **27-14-1708. Temporary tag database.**

(a) There is created a vehicle temporary tag database within the Revenue Division of the Department of Finance and Administration to develop, establish, and maintain a database of information to verify compliance with the unregistered motor vehicle preprinted paper buyer’s tag laws of Arkansas in this chapter.

(b)(1) The vehicle temporary tag database shall be administered by the division with the assistance of the Department of Information Systems or other designated agent with whom the division may contract to supply technical database and data processing expertise.

(2) The vehicle temporary tag database shall be developed and maintained in accordance with guidelines established by the division so that state and local law enforcement agencies can access the vehicle temporary tag database to determine compliance with the sale, licensing, and registration of motor vehicles, as required by law.

(c) The division shall have the authority to enter into or to make agreements, arrangements, or declarations necessary to carry out the provisions of this section.

(d)(1) Upon request, the division may release information in the vehicle temporary tag database to:

(A) The owner to whom the temporary tag was issued;

(B) The parent or legal guardian of the owner to whom the temporary tag was issued if the owner is under eighteen (18) years of age or is legally incapacitated; and

(C) State and local law enforcement agencies, the Arkansas Crime Information Center, or other government offices upon a showing of need.

(2) Except as provided in subdivision (d)(1), all data and information received by the vehicle temporary tag database is confidential and is not subject to examination or disclosure as public information under the Arkansas Freedom of Information Act of 1967, § 25-19-101 et seq.

(e) The division or the reporting company shall not be liable for any damages to any property or person due to any act or omission in the reporting or keeping of any record or information contained in the

vehicle temporary tag database or the issuing or renewing of any motor vehicle registration in accordance with the vehicle temporary tag database.

**History.** Acts 2009, No. 484, § 7.

§ 8, provided: "This act becomes effective

**Effective Dates.** Acts 2009, No. 484, July 1, 2010."

## 27-14-1709. Definition.

As used in this subchapter, "dealer" means a new motor vehicle dealer licensed under § 23-112-301 or a used motor vehicle dealer licensed under § 23-112-607 who is engaged in the sale of:

- (1) New motor vehicles;
  - (2) Used motor vehicles;
  - (3) Motorcycles or motor-driven cycles as defined under § 27-20-101;
- or
- (4) Motor homes.

**History.** Acts 2011, No. 351, § 4.

**A.C.R.C. Notes.** Acts 2011, No. 351, § 5, provided: "(a) The Revenue Division of the Department of Finance and Administration may enter into or make agreements, arrangements, or declarations necessary to carry out the provisions of this act.

"(b) The Department of Finance and Administration may compensate the contractor who will provide for the adminis-

tration and security provisions of the pre-printed paper buyer's tag under this act in an amount to be agreed upon between the department and the contractor, not to exceed two dollars and fifty cents (\$2.50) per tag.

"(c) The Department of Finance and Administration may promulgate rules and forms for the administration of this act."

## SUBCHAPTER 18 — VEHICLES IN TRANSIT TO DEALERS

### SECTION.

27-14-1801. Penalty.

## 27-14-1801. Penalty.

(a) It shall be unlawful for any person to display a placard except as provided in this subchapter.

(b) A person who violates any of the provisions of this subchapter or any of the rules promulgated in this subchapter is guilty of a misdemeanor and shall be fined:

- (1) Five hundred dollars (\$500) for the first offense;
- (2) One thousand dollars (\$1,000) for the second offense; and
- (3) One thousand five hundred dollars (\$1,500) for the third and each subsequent offense.

**History.** Acts 1935, No. 183, § 6; Pope's Dig., § 6626; A.S.A. 1947, § 75-234; Acts 2009, No. 318, § 1.

**Amendments.** The 2009 amendment rewrote (b).



## SUBCHAPTER 23 — DISCLOSURE OF DAMAGE AND REPAIR ON THE CERTIFICATE OF TITLE

### SECTION.

27-14-2302. Issuance of damage certificate.

27-14-2308. Alternative procedure to ob-

tain title for a total loss settlement.

### **27-14-2302. Issuance of damage certificate.**

(a)(1) When an insurer acquires the ownership of a salvage vehicle for which a salvage vehicle title has not been issued, the insurer shall surrender the certificate of title for the salvage vehicle to the Office of Motor Vehicle within thirty (30) days following the acquisition of the certificate of title to the salvage vehicle.

(2)(A) If a motor vehicle becomes a salvage vehicle and an insurer indemnifies under the insurance policy but the insurer does not take title to the salvage vehicle, the insurer shall notify the office that the motor vehicle is a salvage vehicle pursuant to the notification procedure required under this subsection.

(B) The office shall attach a note or stamp to any copy of a title issued by the office or to any reissued or changed title.

(C) The note or stamp shall state that the motor vehicle is a salvage vehicle and shall remain in place until the owner of the vehicle surrenders the certificate of title on the salvage vehicle and a salvage vehicle title or prior salvage vehicle title is issued by the office.

(3) If a person other than an insurer owns a salvage vehicle for which a salvage vehicle title has not been issued, the owner shall surrender the certificate of title for the salvage vehicle to the office within thirty (30) days following the date that the motor vehicle became a salvage vehicle.

(4) [Repealed.]

(b) Upon receipt of such title, there shall be issued a new certificate of title with the word "salvage" printed in the remarks section on the face of the title.

(c)(1) An Arkansas certificate of title issued from an out-of-state certificate of title or comparable ownership document that carries a designation such as "damaged", "salvaged", "water-damaged", "reconstructed", "rebuilt", or other similar classification shall have a brand notation printed in the remarks section on its face as would be required by this subchapter to be printed on an Arkansas certificate of title issued under the provisions of either subsection (b) or subsection (e) of this section.

(2)(A) Provided, however, an Arkansas certificate of title shall not be issued from an out-of-state junking certificate or other ownership document bearing a designation of "junk", "parts only", "nonrepairable", or similar classification, it being the intent of this section that any motor vehicle damaged to the extent that it has been so

designated shall be dismantled for parts or scrap and shall not be registered in the State of Arkansas but may receive a "parts only" title.

(B)(i) An Arkansas title may be issued only if the state that placed the designation on the certificate of title or issued the junking certificate removes the designation or cancels the junking certificate and replaces it with a certificate of title.

(ii) The designation placed on the certificate of title or issuance of junking certificate may be modified or removed only by that state.

(iii) A court of this state shall not have jurisdiction to change or modify the designation or finding of another state issuing a certificate of title or the junking certificate.

(d)(1) When any motor vehicle issued a "salvage" certificate of title or similar branded title by another state is rebuilt or reconstructed, the owner shall, within ten (10) working days, make application to the office for the registration and issuance of a new certificate of title to the motor vehicle.

(2) The application shall be accompanied by the "salvage" certificate of title or similar title issued by another state, a fee in the amount now or hereafter prescribed by law for the registration and issuance of a certificate of title, and a sworn statement executed by the rebuilder or restorer on a form prescribed by the office describing the types of repairs performed, listing all parts replaced, and including the vehicle identification number of any parts bearing such a number or a derivative thereof.

(e)(1) Upon receipt of such "salvage" certificate of title or similar title issued by another state and the sworn statement required to be submitted by subsection (d) of this section, there shall be issued a new certificate of title with the word "rebuilt" printed in the remarks section on the face of the title.

(2) Such brand shall be carried forward and printed in the remarks section on the face of all titles issued thereafter for such motor vehicle.

(f) The sworn statement submitted pursuant to subsection (d) of this section shall be maintained by the office as a part of the permanent title record of the motor vehicle in question, and the information contained therein shall be made available to any prospective buyer or transferee upon request.

(g)(1) If an insurer has the responsibility under this subchapter to surrender the certificate of title on a salvage vehicle for which it has taken title or to notify the office that a motor vehicle is a salvage vehicle, prior salvage vehicle, or "parts only" vehicle, the insurer may delegate its responsibility to surrender the certificate of title or to notify the office to a servicing organization or to a buyer of the salvage vehicle from the insurer.

(2) The insurer shall remain responsible under Arkansas law if the servicing organization or buyer fails to properly surrender the title or notify the office.

(h)(1) The office may issue a "parts only" title to the owner of a salvage vehicle under the following conditions:

(A) The owner of the vehicle decides that the vehicle has no resale value except as a source for parts or scrap; and

(B) The owner surrenders the current certificate of title to the vehicle to the office.

(2) An owner under this subsection may be an insurer that owns the salvage vehicle.

(3)(A) The vehicle shall be dismantled for parts or scrap and issued a "parts only" title in the State of Arkansas.

(B) The "parts only" brand shall be carried forward and printed in the remarks section on the face of all titles subsequently issued for the motor vehicle without regard to the claim of any person that the vehicle has been rebuilt or reconstructed.

**History.** Acts 1993, No. 614, § 2; 2001, No. 328, § 2; 2007, No. 410, § 2; 2009, No. 445, §§ 1, 2; 2009, No. 483, § 1.

**Amendments.** The 2009 amendment by No. 445 deleted (a)(4); and added (h).

The 2009 amendment by No. 483 substituted "A court of this state shall not have" for "No court of this state shall have" in (c)(2)(B)(iii).

### **27-14-2308. Alternative procedure to obtain title for a total loss settlement.**

(a) If an insurance company makes a total loss settlement on a motor vehicle, the owner or lienholder of the motor vehicle shall forward the properly endorsed certificate of title to the insurance company within fifteen (15) days after receipt of the settlement funds.

(b)(1) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor vehicle that does not have a lien or encumbrance, the insurance company or its agent may request the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration to issue a salvage certificate of title or a parts-only certificate of title for the vehicle.

(2) The request shall:

(A) Be submitted on each form required by and provided by the Office of Motor Vehicle;

(B) Document that the insurance company has made at least two (2) written attempts to obtain the certificate of title and include the documentation with the request;

(C) Include any fees applicable to the issuance of a salvage certificate of title or a parts-only certificate of title; and

(D) Be signed under penalty of perjury.

(c)(1) If an insurance company is unable to obtain the properly endorsed certificate of title within thirty (30) days after disbursing a total loss settlement payment for a motor vehicle that has a lien or encumbrance, the insurance company or its agent shall submit documentation to the Office of Motor Vehicle from the claims file that establishes the lienholder's interest was protected in the total loss indemnity payment for the claim.



(2) The documentation under subdivision (c)(1) of this section shall be:

(A) Submitted with a request for a salvage certificate of title or a parts-only certificate of title for the vehicle; and

(B) In addition to the requirements under subdivision (b)(2) of this section.

(d) Upon receipt of a properly endorsed certificate of title or a properly executed request under subsection (b) of this section, the Office of Motor Vehicle shall issue a salvage certificate of title or a parts-only certificate of title for the vehicle in the name of the insurance company.

(e) The Office of Motor Vehicle may promulgate rules and forms for the administration of this section.

**History.** Acts 2011, No. 285, § 1.

## CHAPTER 15

### REGISTRATION AND LICENSING — SPECIAL USES

#### SUBCHAPTER.

#### 22. HISTORICAL OR SPECIAL INTEREST VEHICLES.

#### SUBCHAPTER 22 — HISTORICAL OR SPECIAL INTEREST VEHICLES

#### SECTION.

27-15-2204. Assemblage of vehicle.

27-15-2208. Sale or transfer.

#### 27-15-2204. Assemblage of vehicle.

(a)(1)(A) A collector who has assembled a vehicle meeting the specifications of this subchapter from parts obtained from a variety of different sources and at various different times shall be issued a title upon furnishing a bill or bills of sale for the components.

(B) In cases when that evidence by itself is deemed inadequate, the collector shall execute an affidavit in verification.

(2) To be considered adequate, bills of sale shall be notarized and shall indicate the source of the engine and body and shall list the identification or serial number of the engine and body for the chassis, if applicable.

(b) A person who purchases an assembled vehicle from a collector who has not obtained a title to the assembled vehicle as provided in subsection (a) of this section shall be issued a title to the vehicle only if the purchaser of the vehicle follows the process under § 27-14-409(c)(1). For the purposes of this subsection, the amount of the bond shall be an amount equal to the value of the vehicle, as determined by the Office of Motor Vehicle.

**History.** Acts 1975, No. 334, § 4; A.S.A. 1947, § 75-201.13; Acts 2005, No. 2202, § 2; 2011, No. 826, § 1.

**Amendments.** The 2011 amendment added (b).

### 27-15-2208. Sale or transfer.

Legal transfer of ownership of a motor vehicle, assembled motor vehicle, or parts car of historic or special interest shall not be contingent upon any condition that would require the vehicle or parts car to be in operating condition at the time of the sale or transfer of ownership.

**History.** Acts 1975, No. 334, § 6; A.S.A. 1947, § 75-201.13; Acts 2005, No. 2202, § 2; 2011, No. 826, § 2.

deleted "The sale or trade and subsequent" at the beginning; and inserted "assembled motor vehicle."

**Amendments.** The 2011 amendment

## CHAPTER 16

### DRIVER'S LICENSES GENERALLY

#### SUBCHAPTER

3. PENALTIES.
5. ADMINISTRATION GENERALLY.
6. LICENSING REQUIREMENTS.
7. APPLICATION AND EXAMINATION.
8. ISSUANCE OF LICENSES AND PERMITS.
9. EXPIRATION, CANCELLATION, REVOCATION, OR SUSPENSION.
11. DRIVER'S LICENSE SECURITY AND MODERNIZATION ACT.
12. ARKANSAS VOLUNTARY ENHANCED SECURITY DRIVER'S LICENSE AND IDENTIFICATION CARD ACT.

#### SUBCHAPTER 3 — PENALTIES

#### SECTION.

27-16-302. Unlawful use of license.

### 27-16-302. Unlawful use of license.

(a) It is a misdemeanor for a person:

(1) To display, or cause or permit to be displayed, or have in the person's possession a cancelled, revoked, suspended, fictitious, or fraudulently altered driver's license;

(2) To knowingly assist or permit another person to apply for or obtain through fraudulent application or other illegal means an Arkansas driver's license;

(3) To lend the person's driver's license to another person or knowingly permit its use by another;

(4) To display or represent as one's own a driver's license not issued to the person;

(5) To fail or refuse to surrender to the Office of Driver Services, upon its lawful demand, a driver's license that has been suspended, revoked, or cancelled;

(6) To use a false or fictitious name in an application for a driver's license, to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in an application;

(7) To permit an unlawful use of a driver's license issued to the person; or

(8) To do an act forbidden or fail to perform an act required by this act.

(b) The court in which a person is convicted under subsection (a) of this section shall send to the Office of Driver Services a record of the conviction within ten (10) days of the filing of the conviction with the court clerk.

**History.** Acts 1937, No. 280, § 35; Pope's Dig., § 6859; Acts 1969, No. 348, § 1; A.S.A. 1947, § 75-339; Acts 1993, No. 445, § 3; 2011, No. 194, § 1.

**Amendments.** The 2011 amendment redesignated the former undesignated introductory language as the introductory language of (a); and inserted (b).

## **27-16-303. Driving while license cancelled, suspended, or revoked.**

### **CASE NOTES**

#### **Violation As Grounds for Revocation of Suspended Sentence.**

Trial court did not err in finding that defendant committed two criminal violations by leaving the scene of the accident and driving with a suspended license,

§§ 27-53-101, 27-53-103, and subdivision (a)(1) of this section, or in revoking defendant's suspended sentence, based on evidence that he struck a pedestrian and left the scene. *Jordan v. State*, 2009 Ark. App. 859, — S.W.3d — (2009).

### **SUBCHAPTER 5 — ADMINISTRATION GENERALLY**

#### **SECTION.**

27-16-508. Fee for reinstatement.

#### **27-16-508. Fee for reinstatement.**

(a) The Office of Driver Services shall collect a reinstatement fee of one hundred dollars (\$100) to be multiplied by the number of administrative orders to suspend, revoke, or cancel a driver's license, other than orders eligible for reinstatement under § 27-16-808, § 5-65-119, § 5-65-304, or § 5-65-310 and other than orders entered under § 27-16-909.

(b) The revenues derived from this fee shall be deposited into the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund.

(c) The fee under this section is supplemental to and in addition to any fee imposed under § 5-65-119, § 5-65-304, § 5-65-310, or § 27-16-808.

**History.** Acts 2003, No. 1001, § 4; 2005, No. 1992, § 4; 2011, No. 194, § 2.

substituted “§ 27-16-909” for “§ 27-16-907(a)(5)” in (a).

**Amendments.** The 2011 amendment



**SUBCHAPTER 6 — LICENSING REQUIREMENTS**

## SECTION.

27-16-603. Persons exempted from licensing.

**27-16-603. Persons exempted from licensing.**

The following persons are exempt from licensing under this act:

(1) A person who operates a motor vehicle for a military purpose:

(A) While in the service of the:

(i) Army, Air Force, Navy, Coast Guard, or Marine Corps of the United States; or

(ii) National Guard or military reserve; or

(B) While serving as a National Guard military technician;

(2) Any person while operating or driving any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;

(3) A nonresident who is at least sixteen (16) years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to him or her in his or her home state or country may operate a motor vehicle in this state only as a noncommercial driver;

(4) A nonresident who is at least eighteen (18) years of age and who has in his or her immediate possession a valid commercial driver's license issued to him or her by his or her home state or country may operate a motor vehicle in this state as a noncommercial driver or may operate a commercial motor vehicle as provided by § 27-23-123; and

(5) Any nonresident who is at least eighteen (18) years of age whose home state or country does not require the licensing of noncommercial drivers may operate a motor vehicle as a noncommercial driver only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of the nonresident.

**History.** Acts 1937, No. 280, § 8; Pope's Dig., § 6832; Acts 1981, No. 852, § 1; A.S.A. 1947, § 75-308; Acts 1993, No. 445, § 12; 2005, No. 879, § 3; 2009, No. 456, § 3.

**Amendments.** The 2009 amendment rewrote (1).

**SUBCHAPTER 7 — APPLICATION AND EXAMINATION**

## SECTION.

27-16-701. Application for license or instruction permit — Restricted permits.

## SECTION.

27-16-705. Examiners.

**27-16-701. Application for license or instruction permit — Restricted permits.**

(a)(1) Every application for an instruction permit or for a commercial or noncommercial driver's license shall be made upon a form furnished by the Office of Driver Services, and every application shall be accompanied by the required fee.

(2) The commercial driver's license or noncommercial driver's license shall include the intermediate driver's license issued to persons who are less than eighteen (18) years of age and the learner's license issued to persons who are less than sixteen (16) years of age.

(b) Every application shall:

(1) State the full name, date of birth, sex, and residence address of the applicant;

(2) Briefly describe the applicant; and

(3) State whether the applicant has theretofore been licensed as a driver and, if so, when and by what state or country, whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for suspension, revocation, or refusal.

(c)(1) Every application form for an instruction permit, a commercial or noncommercial driver's license, or any renewal of these licenses or permits shall include space for the applicant's social security number if he or she has been assigned such a number.

(2) Every applicant shall supply his or her social security number on the application form when he or she has been assigned such a number.

(d) Every application for an instruction permit or for a driver's license by a person less than eighteen (18) years of age on October 1 of any year shall be accompanied by:

(1)(A) Proof of receipt of a high school diploma or its equivalent or enrollment and regular attendance in an adult education program or a public, private, or parochial school.

(i)(a) In order to be issued a license, a student enrolled in school shall present proof of a "C" average for the previous semester or similar equivalent grading period for which grades are recorded as part of the student's permanent record.

(b) However, when the student does not have the required "C" average, a restricted license may be issued to the student for the purpose of driving to and from work.

(ii) A student with disabilities receiving special education or related services or a student enrolled in an adult education program shall present proof that the student is successfully completing his or her individual education plan in order to be issued a license.

(B) "Regular attendance" in a school shall be attendance in compliance with the established written policy of the school district or school concerning truancy.

(C) "Regular attendance" in an adult education program shall be attendance in compliance with the policy for sixteen-year-olds and

seventeen-year-olds established by the State Board of Career Education as provided for in § 6-18-222;

(2) Proof that the person is being provided schooling at home as described in § 6-15-501 et seq. in the form of a notarized copy of the written notice of intent to home school the student provided by the parent or guardian to the superintendent of the local school district as required by § 6-15-503;

(3) Proof that the person is enrolled in a postsecondary vocational-technical program, a community college, or a two-year or four-year institution of higher education;

(4) A check of the applicant's driving record to verify that the applicant for a learner's license or an intermediate driver's license has been free of a serious accident and conviction of a serious traffic violation for the last six (6) months and that an applicant with an intermediate driver's license applying for a regular license has been free of a serious accident and conviction of a serious traffic violation for the last twelve (12) months;

(5) An acknowledgment signed by the applicant of a learner's license that the student is aware that all passengers riding in the motor vehicle shall wear seat belts at all times and that the student is restricted to driving only when accompanied by a driver over twenty-one (21) years of age;

(6) An acknowledgment signed by the applicant for an intermediate driver's license that all passengers riding in the motor vehicle shall wear seat belts at all times;

(7) An acknowledgment signed by the applicant for a learner's license or an intermediate driver's license that the applicant is prohibited from using a cellular telephone or other interactive wireless communication device while operating a motor vehicle;

(8)(A) An acknowledgment signed by the applicant for an intermediate driver's license that the applicant shall not operate a motor vehicle on public streets or highways with more than one (1) unrelated minor passenger in the motor vehicle unless the applicant is accompanied by a licensed driver who is twenty-one (21) years of age or older.

(B) As used in this section, "unrelated minor passenger" means a passenger who is under twenty-one (21) years of age and who is not:

(i) A sibling of the driver;

(ii) A step-sibling of the driver; or

(iii) A child who resides in the same household as the driver; and

(9) An acknowledgment signed by the applicant for an intermediate driver's license that the applicant shall not operate a motor vehicle on public streets or highways between the hours of 11:00 p.m. and 4:00 a.m. unless the applicant is:

(A) Accompanied by a licensed driver who is twenty-one (21) years of age or older;

(B) Driving to or from a school activity, church-related activity, or job; or



(C) Driving because of an emergency.

(e) The Department of Education shall develop guidelines for use by school districts to provide a certified exemption from the "C" average requirement of subdivisions (d)(1)-(3) of this section to a student found to be performing at his or her fullest level of capability although that may be below a "C" average.

(f)(1) Any person less than eighteen (18) years of age who is unable to meet the requirements of subdivisions (d)(1)-(3) of this section may petition the office that he or she be issued a restricted permit for employment-related purposes.

(2)(A) The office shall advise the person of the time and place for making the request and for the hearing thereon, which shall be conducted within a reasonable time following the application date.

(B) Notice shall be given by mailing the notice to the last known address of the person seeking the restricted permit.

(3)(A) In cases in which demonstrable financial hardship would result from the failure to issue a learner's permit or driver's license, the Department of Finance and Administration may grant exceptions only to the extent necessary to ameliorate the hardship.

(B) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(g) The Department of Finance and Administration shall have the power to promulgate rules and regulations to carry out the intent of this section and shall distribute to each public, private, and parochial school and each adult education program a copy of all rules and regulations adopted under this section.

**History.** Acts 1937, No. 280, § 12; Pope's Dig., § 6836; Acts 1969, No. 302, § 1; A.S.A. 1947, § 75-311; Acts 1987, No. 274, § 1; 1989, No. 8, § 1; 1991, No. 716, § 1; 1991, No. 831, § 1; 1993, No. 445, § 15; 1993, No. 971, § 1; 1994 (2nd Ex. Sess.), No. 30, § 3; 1994 (2nd Ex. Sess.), No. 31, § 3; 1997, No. 400, § 7; 1997, No. 1200, § 1; 2001, No. 1609, § 1; 2001, No. 1694, § 2; 2003, No. 836, § 1; 2009, No. 394, § 4.

**Amendments.** The 2009 amendment inserted (d)(7) through (d)(9).

## 27-16-705. Examiners.

(a) An examination as provided for in this subchapter shall be conducted by the Department of Arkansas State Police or by the duly authorized agents of the Director of the Department of Finance and Administration.

(b) No examination shall be conducted by local law enforcement officers or local citizens.

(c) The Department of Arkansas State Police may promulgate any necessary rules to implement, administer, and enforce this subchapter concerning examinations.

**History.** Acts 1937, No. 280, § 17; § 1; A.S.A. 1947, § 75-319; Acts 2011, No. Pope's Dig., § 6841; Acts 1943, No. 128, 1022, § 1.

**Amendments.** The 2011 amendment added (c).

## SUBCHAPTER 8 — ISSUANCE OF LICENSES AND PERMITS

### SECTION.

- 27-16-801. Licenses generally — Validity periods — Contents — Fees — Disposition of moneys.  
 27-16-803. [Repealed.]  
 27-16-804. Restricted licenses, learner's licenses, and intermediate licenses.

### SECTION.

- 27-16-805. Identification purposes only.  
 27-16-812. Veteran designation.  
 27-16-813. Medical exemption designation for seat belt use.  
 27-16-814. Living will designation.

**Effective Dates.** Acts 2009, No. 308, § 6: June 30, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act will improve the safety and health of Arkansans; that the changes to the law will qualify the state to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs; that the deadline for the state to have a primary seatbelt law in place that is effective and enforceable to qualify for the federal grant program is June 30, 2009; and that this act is immediately necessary to secure substantial federal funding and make the roads and highways safer in the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on June 30, 2009."

Acts 2011, No. 12, § 3: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a person's status as a veteran can easily be included on a driver's license; that this information can be helpful for the veteran to secure benefits more easily; that having this information on driver's licenses can be helpful to law enforcement, especially when the veteran has recently returned from combat, as many of our young veterans have; and that this act is immediately necessary because it will streamline administrative procedures for veterans and assist law enforcement. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

## 27-16-801. Licenses generally — Validity periods — Contents — Fees — Disposition of moneys.

(a)(1) In a manner prescribed by the Commissioner of Motor Vehicles:

(A) The Office of Motor Vehicle shall issue a Class D license or a Class M license to each qualified applicant for a period of four (4) years upon payment of twelve dollars (\$12.00);

(B) The office shall issue a Class MD license to each qualified applicant for a period of not more than two (2) years upon payment of two dollars (\$2.00); and

(C)(i) Every applicant for a Class D license, Class M license, or Class MD license under § 27-16-704, § 27-16-807, or § 27-20-108

shall pay an examination fee of five dollars (\$5.00) for the first examination and a fee of five dollars (\$5.00) for each subsequent examination, but there shall be no charge after the third examination if the applicant produces receipts for fees paid for previous examinations.

(ii) The examination fee shall be remitted in a manner prescribed by the commissioner.

(2) Each license shall include:

(A) A distinguishing number assigned to the licensee;

(B)(i) Except as provided under subdivision (a)(2)(B)(ii) of this section, the name, residence address, date of birth, and a brief description of the licensee.

(ii) The following exceptions to providing a residence address and instead providing a post office box address shall be allowed at the option of the licensee:

(a) If the licensee is a law enforcement officer; or

(b) If the licensee is a victim of domestic violence or the dependent of a victim of domestic violence as provided under § 27-16-811; and

(C) A space upon which the licensee may affix his or her signature.

(3) The licensee shall affix his or her signature in ink in a space provided, and no license shall be valid until it shall have been so signed by the licensee.

(4) At the time of initial issuance or at the time of renewal of a license, the distinguishing number assigned to the licensee for his or her license shall be a nine-digit number assigned to the specific licensee by the commissioner.

(b)(1)(A) All licenses, as described in subsection (a) of this section, shall include a color photograph of the licensee, and the photograph shall be made a part of the license at the time of application.

(B)(i) If the licensee is under eighteen (18) years of age at the time the license is issued, the license shall state that the licensee was under eighteen (18) years of age at the time of issuance.

(ii) If the licensee is at least eighteen (18) years of age but under twenty-one (21) years of age at the time the license is issued, the license shall state that the licensee was under twenty-one (21) years of age at the time the license was issued.

(2) A license may be valid without a photograph of the licensee when the commissioner is advised that the requirement of the photograph is either objectionable on the grounds of religious belief or the licensee is unavailable to have the photograph made.

(3)(A) If a licensee has an illness that causes hair loss or is undergoing treatment for an illness that causes hair loss, the Office of Driver Services shall give the licensee the option to use the photograph from the most recent driver's license on file with the office instead of having a new photograph taken if the licensee establishes that his or her hair loss is related to that illness or treatment.

(B) To establish the relationship between the licensee's illness or treatment and the resulting hair loss, the licensee shall provide a statement from his or her treating physician.



(C) This option can only be provided for one (1) renewal of the license to prevent obsolete photographs from being used.

(c)(1) In addition to the license fee prescribed by subsection (a) of this section, the office shall collect a penalty equal to fifty percent (50%) of the amount thereof from each driver, otherwise qualified, who shall operate a motor vehicle over the highways of this state without a valid license.

(2) Such penalty shall be in addition to any other penalty that may be prescribed by law.

(d) All license fees collected under subsection (a) of this section shall be deposited into the State Treasury as special revenues, and the net amount thereof shall be credited to the Department of Arkansas State Police Fund, to be used for the operation, maintenance, and improvement of the Department of Arkansas State Police.

(e)(1) The office shall not charge an additional fee for the color photograph provided for in subsection (b) of this section for those applicants making a renewal application for the first time.

(2) In addition to the regular license fee, a fee of one dollar (\$1.00) shall be charged for all subsequent renewals.

(3) All persons applying for an Arkansas license for the first time and all persons who are required to take the driver's written examination as provided for in this act shall be charged the additional fee of one dollar (\$1.00).

(4) All persons who are required to have their eyesight tested prior to initial licensing or upon subsequent license renewal as provided for in this act shall be charged an additional fee of one dollar (\$1.00) upon issuance of the license.

(f) Moneys collected from the penalty fee provided in subsection (c) of this section and the fees provided in subsection (e) of this section shall be deposited into the State Treasury into the Constitutional Officers Fund and the State Central Services Fund, and the net amount shall be credited to the Department of Finance and Administration to be used to help defray the cost of the driver license program which shall be payable therefrom.

(g) Such fees as are collected under subsection (a) of this section shall be remitted to the State Treasury, there to be deposited as special revenues to the credit of the Department of Arkansas State Police Fund, to be used for the operation, maintenance, and improvement of the Department of Arkansas State Police.

(h)(1) In addition to the license fees imposed in subsections (a) and (e) of this section, a fee of six dollars (\$6.00) shall be charged for the issuance or renewal of any Class D, M, or MD license.

(2) The fees collected under this subsection shall be remitted to the State Treasury, there to be deposited as special revenues to the credit of the Department of Arkansas State Police Fund, to be used for the payment of health insurance premiums for uniformed employees of the Department of Arkansas State Police.

**History.** Acts 1937, No. 280, §§ 18, 21; Pope's Dig., § 6842; Acts 1939, No. 72, § 1; 1941, No. 370, § 1; 1947, No. 393, § 1; 1957, No. 24, § 1; 1965, No. 493, § 1; 1967, No. 338, § 1; 1969, No. 276, § 1; 1977, No. 311, § 1; A.S.A. 1947, §§ 75-320, 75-325; Acts 1987, No. 274, § 2; 1989, No. 8, § 2; 1989, No. 193, § 3; 1989, No. 241, § 25; 1991, No. 782, §§ 1, 2; 1993, No. 445, §§ 18, 19; 1993, No. 1168, § 1; 1997, No. 495, § 1; 1999, No. 1004, § 1;

2001, No. 1500, § 1; 2001, No. 1694, § 5; 2003, No. 836, § 2; 2005, No. 1233, § 2; 2007, No. 839, § 9; 2009, No. 483, § 2; 2009, No. 1486, § 1.

**Amendments.** The 2009 amendment by No. 483 redesignated (a)(1), and made minor stylistic changes.

The 2009 amendment by No. 1486, in (b), subdivided (b)(1), inserted (b)(3), and made a minor stylistic change.

## 27-16-803. [Repealed.]

**Publisher's Notes.** This section, concerning temporary permits, was repealed by Acts 2009, No. 456, § 4. The section was derived from Acts 1937, No. 280, § 11;

Pope's Dig., § 6835; Acts 1959, No. 307, § 14; 1983, No. 514, § 1; A.S.A. 1947, § 75-310; Acts 1989, No. 707, §§ 1, 2; 1993, No. 445, § 21.

## 27-16-804. Restricted licenses, learner's licenses, and intermediate licenses.

(a) The Office of Driver Services, upon issuing any driver's license, shall have authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or other restrictions applicable to the licensee as the office may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b)(1) The office may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(2)(A)(i) Upon the showing of need, the office may waive any age restriction set forth in this chapter.

(ii) However, every driver under eighteen (18) years of age is at a minimum subject to the restrictions set out in subdivision (b)(2)(B) of this section.

(B)(i) A license shall be issued only to an applicant with a valid instruction permit or learner's license who:

(a) Is at least fourteen (14) years of age; and

(b) Has remained free of a serious accident and conviction of a serious traffic violation for at least the previous six (6) months.

(ii) A driver shall operate the motor vehicle on the public streets and highways only when each passenger in the vehicle wears his or her seat belts.

(iii) The driver shall not use a cellular telephone device or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose. As used in this subdivision (b)(2)(B)(iii), "emergency purpose" means the driver:

(a) Has reason to fear for his or her life, safety, or property;

(b) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or

(c) Is reporting:

- (1) A fire;
- (2) A traffic accident;
- (3) A serious road hazard;
- (4) A medical emergency;
- (5) A hazardous materials emergency;
- (6) Another driver who is recklessly, carelessly, or unsafely driving;

or

(7) Another driver who appears to be driving under the influence of drugs or alcohol.

(iv) A driver shall not operate a motor vehicle on public streets or highways with any unrelated minor passengers in the motor vehicle unless the driver is accompanied by a licensed driver who is twenty-one (21) years of age or older and who is occupying the front passenger seat of the motor vehicle. As used in this subsection, "unrelated minor passenger" means a passenger who is under twenty-one (21) years of age and who is not:

- (a) A sibling of the driver;
- (b) A step-sibling of the driver; or
- (c) A child who resides in the same household as the driver.

(v) The driver shall not operate a motor vehicle on public streets or highways between the hours of 11:00 p.m. and 4:00 a.m. unless the driver is:

- (a) Accompanied by a licensed driver who is twenty-one (21) years of age or older;
- (b) Driving to or from a school activity, church-related activity, or job; or
- (c) Driving due to an emergency.

(C) The waiver of the age restrictions for need is subject to review upon a complaint from certain officials under subsection (d) of this section.

(c) All licensees who have a tested uncorrected visual acuity of less than 20/40 shall be restricted to the operation of a motor vehicle, motorcycle, or motor-driven cycle only while they are wearing corrective lenses. No person shall be allowed to operate a motor vehicle, motorcycle, or a motor-driven cycle if he or she has a tested corrected visual acuity of less than 20/50 or if he or she has a field of vision less than one hundred forty degrees (140°) with two (2) functioning eyes or less than one hundred five degrees (105°) with one (1) functioning eye.

(d)(1) The office may, upon receiving satisfactory evidence of any violation of the restrictions of a license, suspend or revoke the license, but the licensees shall be entitled to a hearing as upon a suspension or revocation under this chapter.

(2)(A) Upon receiving a complaint from a prosecuting attorney, a city attorney, or a certified law enforcement officer, the office shall review the validity of any waiver of age restrictions based on need and any violations of restrictions placed on a license.



(B) The licensee is entitled to a hearing, which the complaining official may attend, to review the need of the waiver or any violations of the restrictions of the license.

(C) The office shall suspend or revoke the waiver if there is evidence that the need for the waiver has changed or is no longer valid or that the licensee violated any of the restrictions of the license.

(e) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her.

(f)(1) The office shall have authority to issue a restricted driver's license, to be known as a "learner's license", to those persons under sixteen (16) years of age.

(2) The learner's license shall be issued only to an applicant with a valid instruction permit who is at least fourteen (14) years of age, who has remained free of a serious accident and conviction of a serious traffic violation in the previous six (6) months, and who meets all other licensing examinations requirements of this chapter.

(3) The driver with a learner's license shall operate the motor vehicle on the public streets and highways only when:

(A) All passengers in the vehicle are wearing their seat belts at all times; and

(B) The driver with a learner's license is being accompanied by a driver over twenty-one (21) years of age.

(4)(A) A driver with a learner's license shall not use a cellular telephone device or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose.

(B) As used in this subdivision (f)(4), "emergency purpose" means the driver:

(i) Has reason to fear for his or her life, safety, or property;

(ii) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or

(iii) Is reporting:

(a) A fire;

(b) A traffic accident;

(c) A serious road hazard;

(d) A medical emergency;

(e) A hazardous materials emergency;

(f) Another driver who is recklessly, carelessly, or unsafely driving; or

(g) Another driver who appears to be driving under the influence of drugs or alcohol.

(C) This subdivision (f)(4) is not retroactive and applies only to a person who:

(i) Applies for a learner's license after the effective date of this act; and

(ii) Is issued a learner's license after the effective date of this act.

(g)(1)(A) The office shall have authority to issue to those persons under eighteen (18) years of age a restricted driver's license to be known as an "intermediate driver's license".

(B) The intermediate driver's license shall be issued only to an applicant with a valid instruction permit or a learner's license who is at least sixteen (16) years of age, who has remained free of a serious accident and conviction of a serious traffic violation for at least the previous six (6) months, and who meets all other licensing examination requirements of this chapter.

(C) The driver with an intermediate driver's license shall operate the motor vehicle on the public streets and highways only when all passengers in the vehicle are wearing their seat belts.

(D)(i) A driver with an intermediate driver's license shall not use a cellular telephone device or other interactive wireless communication device while operating a motor vehicle except for an emergency purpose.

(ii) As used in this subdivision (g)(1)(D), "emergency purpose" means the driver:

- (a) Has reason to fear for his or her life, safety, or property;
- (b) Reasonably believes that a criminal act may be perpetrated against him or her, his or her property, another person, or another person's property; or
- (c) Is reporting:
  - (1) A fire;
  - (2) A traffic accident;
  - (3) A serious road hazard;
  - (4) A medical emergency;
  - (5) A hazardous materials emergency;
  - (6) Another driver who is recklessly, carelessly, or unsafely driving;
- or
- (7) Another driver who appears to be driving under the influence of drugs or alcohol.

(E)(i) A driver with an intermediate driver's license shall not operate a motor vehicle on public streets or highways with more than one (1) unrelated minor passenger in the motor vehicle unless the driver is accompanied by a licensed driver who is twenty-one (21) years of age or older and who is occupying the front passenger seat of the motor vehicle.

(ii) As used in this section, "unrelated minor passenger" means a passenger who is under twenty-one (21) years of age and who is not:

- (a) A sibling of the driver;
- (b) A step-sibling of the driver; or
- (c) A child who resides in the same household as the driver.

(F) A driver with an intermediate driver's license shall not operate a motor vehicle on public streets or highways between the hours of 11:00 p.m. — 4:00 a.m. unless the driver is:

- (i) Accompanied by a licensed driver who is twenty-one (21) years of age or older;

(ii) Driving to or from a school activity, church-related activity, or job; or

(iii) Driving because of an emergency.

(2) Subdivisions (g)(1)(D)-(F) are not retroactive and apply only to a person who:

(A) Applies for an intermediate license after the effective date of this act; and

(B) Is issued an intermediate license after the effective date of this act.

(h) [Repealed.]

**History.** Acts 1937, No. 280, § 20; Pope's Dig., § 6844; Acts 1969, No. 350, § 1; 1977, No. 863, § 2; A.S.A. 1947, § 75-324; Acts 1989, No. 193, § 4; 1993, No. 445, § 22; 1997, No. 478, § 2; 2001, No. 1694, § 7; 2003, No. 268, §§ 1, 2; 2009, No. 308, §§ 1, 4; 2009, No. 394, §§ 1, 2, 3; 2009, No. 807, § 1.

**A.C.R.C. Notes.** Acts 2009, No. 308, § 1, provided: "Legislative findings. The General Assembly finds:

"(1) In 2007, five hundred twenty-five (255) people died while riding in passenger vehicles in Arkansas and sixty-five percent (65%) of those who died were not wearing a seat belt;

"(2) In 2007, sixty-one (61) people died after being ejected from their vehicles during a rollover crash because they were not wearing their seat belts; and

"(3) By adopting a primary seat belt law, Arkansas can expect an increase in the use of seat belts by motorists of approximately twelve percent (12%); and

"(4) Adopting a primary seat belt law could save as many as forty-seven (47)

lives each year, prevent approximately five hundred four (504) serious injuries each year, and save an estimated one hundred four million dollars (\$104,000,000) in economic costs each year; and

"(5) The adoption of the primary seat belt law will entitle the State of Arkansas to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs."

**Amendments.** The 2009 amendment by No. 308 deleted (h).

The 2009 amendment by No. 394, in (f), substituted "license" for "permit" in (f)(3)(B) and inserted (f)(4); in (g), redesignated (g)(1) and inserted (g)(1)(D), (E), and (F); and deleted (h), which read: "No motor vehicle, nor the operator of a vehicle, nor the passengers of the vehicle shall be stopped, inspected, or detained solely to determine compliance with the requirement set out in this subchapter for wearing a seat belt."

The 2009 amendment by No. 807 rewrote (b)(2).

## 27-16-805. Identification purposes only.

(a)(1) The Office of Driver Services may issue an identification card to those Arkansas residents five (5) years of age or older who are not licensed drivers.

(2) The fee for the card shall be five dollars (\$5.00).

(b)(1)(A) For those persons under sixty (60) years of age, the card shall be valid for either four (4) years or two (2) years, depending on the person's age, and is renewable upon expiration.

(B) For persons fourteen (14) years of age and older, the card shall be valid for four (4) years from the date of issue.

(C) For persons five (5) to thirteen (13) years of age, the card shall be valid for two (2) years from the date of issue, and a parent, legal guardian, grandparent, or sibling over eighteen (18) years of age



must accompany the applicant to the issuing location and sign the electronic application.

(2) Those persons who are sixty (60) years of age or older who qualify for this card shall be issued the card to be valid for the life of the holder.

(c) Each card shall contain:

(1) A color photograph of the applicant;

(2) A physical description;

(3) The birthdate;

(4) The address;

(5) The date of issue; and

(6) The expiration date.

(d)(1) Any person who applies for a card shall be required to show proof of identity.

(2) Refusal of an applicant to show proof shall result in denial of the application.

**History.** Acts 1937, No. 280, § 21; 1977, No. 311, § 2; 1985, No. 1039, § 1; A.S.A. 1947, § 75-325; Acts 1989, No. 385, § 1; 2003, No. 211, § 1; 2011, No. 193, § 1.

**Amendments.** The 2011 amendment inserted "grandparent, or sibling over eighteen (18) years of age" in (b)(1)(C).

## 27-16-812. Veteran designation.

(a)(1) A person may apply to the Office of Driver Services to obtain a veteran designation on a driver's license or identification card issued under this subchapter by providing:

(A) A United States Department of Defense discharge document, otherwise known as a DD Form 214, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's service in the armed forces of the United States; and

(B) Payment of the fee for the driver's license or identification card authorized under this chapter.

(2) If the person is seeking a duplicate or substitute driver's license with the veteran designation and his or her driver's license has not expired, the fee shall be as provided under § 27-16-806.

(b) The Office of Driver Services may:

(1) Determine the appropriate placement of the veteran designation on the driver's licenses and identification cards authorized under this section; and

(2) Promulgate the necessary rules for the administration of this section.

**History.** Acts 2011, No. 12, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 12, § 1, provided: "This act shall be known and

may be cited as the 'Nick Bacon Remembrance Act'."

**27-16-813. Medical exemption designation for seat belt use.**

(a)(1) A person may apply to the Office of Driver Services to obtain a medical exemption designation for seat belt use on a driver's license or identification card issued under this subchapter by providing:

(A) Documentation from a physician as provided under § 27-37-702(b)(2); and

(B) Payment of the fee for the driver's license or identification card authorized under this chapter.

(2) If the person seeks a duplicate or substitute driver's license with the medical exemption designation and his or her driver's license has not expired, the fee shall be as provided under § 27-16-806.

(b) The Office of Driver Services may:

(1) Determine the appropriate placement of the medical exemption designation on a driver's license or identification card authorized under this section; and

(2) Promulgate the necessary rules for the administration of this section.

(c) This section does not require a person who has a medical condition that contraindicates the use of a seat belt under § 27-37-702(b)(2) to obtain a driver's license or identification card under this section with a medical exemption designation.

**History.** Acts 2011, No. 601, § 1.      quired — applicability of subchapter,  
**Cross References.** Seat belt use re- § 27-37-702.

**27-16-814. Living will designation.**

(a)(1) A person may apply to the Office of Driver Services to obtain a living will designation on a driver's license or identification card issued under this subchapter by providing:

(A) A signed form stating that he or she has executed a living will; and

(B) Payment of the fee for the driver's license or identification card authorized under this chapter.

(2) If the person seeks a duplicate or substitute driver's license with the living will designation and his or her driver's license has not expired, the fee shall be as provided under § 27-16-806.

(b) The Office of Driver Services may:

(1) Determine the appropriate placement of the living will designation on a driver's license or identification card authorized under this section; and

(2) Promulgate the necessary rules for the administration of this section.

(c) This section does not require a person to have a living will or to have a living will designation on his or her driver's license.

**History.** Acts 2011, No. 729, § 1.

**SUBCHAPTER 9 — EXPIRATION, CANCELLATION, REVOCATION, OR SUSPENSION****SECTION.**

27-16-903. Authority to cancel licenses.

27-16-906. [Repealed.]

27-16-907. Suspension or revocation of licenses.

27-16-909. Suspension or revocation of license for inability to drive.

**SECTION.**

27-16-912. Application for new license following revocation.

27-16-913. Right of appeal to court of record.

**27-16-903. Authority to cancel licenses.**

(a)(1)(A) The Office of Driver Services is authorized to cancel any driver's license or identification card upon determining that:

(i) The licensee was not entitled to the issuance of the driver's license or identification card under this chapter;

(ii) The applicant failed to give the required or correct information in his or her application or committed any fraud in making the application; or

(iii) The licensee possessed, used, or created a forged, altered, or fraudulent driver's license.

(B) Upon cancellation of any such license, the office may additionally suspend or revoke any validly issued license of any licensee found in possession of an invalid license or who has caused or assisted in the issuance of an invalid license.

(2) The decision to suspend or revoke the original license of the licensee shall be made in accordance with the provisions of § 27-16-907.

(b) Upon cancellation, the licensee must surrender the license so cancelled.

(c) The office shall not grant an application for a new license to any driver if the driver's previous license was cancelled, suspended, or revoked as a result of a determination that the applicant committed any fraud in making the application until the expiration of one (1) year after the cancellation, suspension, or revocation.

**History.** Acts 1937, No. 280, § 25; Pope's Dig., § 6849; Acts 1959, No. 307, § 16; A.S.A. 1947, § 75-329; Acts 1993, No. 445, § 25; 1995, No. 483, § 1; 1999, No. 1077, § 1; 2005, No. 879, § 4; 2011, No. 194, § 3.

**Amendments.** The 2011 amendment substituted "§ 27-16-907" for "§§ 27-16-907 and 27-16-912" in (a)(2).

**27-16-906. [Repealed.]**

**Publisher's Notes.** This section, concerning conviction in another state, was repealed by Acts 2011, No. 194, § 4. The section was derived from Acts 1937, No.

280, § 27; Pope's Dig., § 6851; Acts 1959, No. 307, § 15; A.S.A. 1947, § 75-331; Acts 1993, No. 445, § 27.



**27-16-907. Suspension or revocation of licenses.**

(a) The Office of Driver Services may suspend the license of a driver for up to one (1) year upon a showing by its records or other sufficient evidence that the licensee is an habitual violator of the traffic laws.

(b) The office may suspend the license of a driver for one (1) year upon a showing by its records or other sufficient evidence that the licensee:

(1) Has been involved as a driver in an accident resulting in the death or personal injury of another or in serious property damage;

(2) Is an habitually reckless or negligent driver of a motor vehicle;

(3) Has permitted an unlawful or fraudulent use of the licensee's license;

(4) Has been convicted of an offense in another state that if committed in this state would be grounds for suspension;

(5) Is receiving any type of welfare, tax, or other benefit or exemption as a blind or nearly blind person, if the correctable vision of the person is less than 20/50 in at least one (1) eye or if the total visual field of the person is less than one hundred five degrees (105°);

(6) Was found by the office or its agent to have committed fraud in making an application for a driver's license or identification card issued under § 27-16-805;

(7) Was found by the office or its agent to have used or attempted to use a driver's license or identification card issued under § 27-16-805 that was fraudulent, counterfeit, or altered; or

(8) Was found by the office or its agent to have used or attempted to use the driver's license or identification card of another person by representing it as the licensee's own license or identification card issued under § 27-16-805.

(c) The office may revoke the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(1) Has been convicted of an offense in another state that if committed in this state would be grounds for revocation; or

(2)(A) Is a person who is not lawfully present within the United States.

(B) The office shall not grant a new application for a license to a driver revoked under subdivision (c)(2)(A) of this section unless the driver demonstrates to the office that the driver is lawfully present within the United States.

(C) Notwithstanding the provisions of § 27-16-912, a driver whose license is revoked for failure to demonstrate legal presence may apply for a new license at any time during the year following revocation if the driver is able to demonstrate lawful presence at the time of the application for a new license.

(d) The office may secure from all state agencies involved the necessary information to comply with this section.

(e)(1) Upon the suspension or revocation of the license of a person under this section, the office shall notify the licensee in writing.

(2) Any licensee desiring a hearing shall notify the office in writing within twenty (20) days after receipt of the notice of suspension or revocation.

(3)(A) A hearing officer appointed by the Director of the Department of Finance and Administration shall schedule a hearing in an office of the Revenue Division of the Department of Finance and Administration designated by the director for such hearings.

(B) The hearing shall be in the office in the county of residence of the licensee unless the director and licensee agree to another location for the hearing or agree that the hearing shall be held by telephone conference call.

(4) Based upon the evidence presented at the hearing, the hearing officer shall modify, rescind, or affirm the suspension or revocation of the license.

(f) Hearings conducted by the office under this section shall not be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(g) The director may promulgate rules and regulations for the administration of this section.

**History.** Acts 1937, No. 280, § 30; Pope's Dig., § 6854; Acts 1967, No. 340, § 1; A.S.A. 1947, § 75-334; Acts 1987, No. 976, § 1; 1989, No. 193, § 7; 1993, No. 445, § 28; 1997, No. 1099, § 2; 2001, No. 744, § 1; 2001, No. 1057, § 1; 2011, No. 194, § 5.

**Amendments.** The 2011 amendment rewrote (a); inserted present (b) and (c) and redesignated the remaining subsec-

tions accordingly; in (e)(1), substituted "Upon the suspension or" for "Upon denial, suspension, or" and deleted "as authorized" following "person"; substituted "notice of suspension or" for "denial, suspension, or" in (e)(2); subdivided (e)(3) into present (e)(3)(A) and (e)(3)(B); substituted "suspension or revocation" for "denial, suspension, or" in (e)(4); and inserted (g).

## **27-16-909. Suspension or revocation of license for inability to drive.**

(a)(1) The Office of Driver Services, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may, upon written notice of at least five (5) days to the licensee, require the licensee to submit to an initial evaluation by a hearing officer appointed by the Director of the Department of Finance and Administration in an office of the Revenue Division of the Department of Finance and Administration designated by the director.

(2)(A) Upon the conclusion of the initial evaluation, the hearing officer shall determine:

(i) That the initial evaluation does not support the suspension or revocation of the license and that the license shall remain in effect; or

(ii) That the driver must submit to a medical evaluation, a driving skills evaluation, or both a medical evaluation and a driving skills evaluation.

(B) If the hearing officer determines that the driver must submit to a medical evaluation, driving skills evaluation, or both a medical evaluation and a driving skills evaluation, the driver shall provide

proof of completion of the evaluation or evaluations to the hearing officer within thirty (30) days of the initial evaluation.

(C) Refusal or neglect of the licensee to submit to, and provide proof of completion of, an evaluation required under this section is grounds for suspension or revocation of the licensee's license.

(b) Upon receipt by the office of evaluations required under subsection (a) of this section, the office may suspend or revoke the license of the person or may permit the person to retain his or her license or may issue a license subject to restrictions as permitted under § 27-16-804.

(c)(1) The office shall notify the licensee in writing of the suspension or revocation of the driver's license as authorized under this section.

(2) Any licensee desiring a hearing shall notify the office in writing within twenty (20) days after receipt of the notice of suspension or revocation.

(3)(A) A hearing officer appointed by the director shall schedule a hearing in an office of the revenue division designated by the director for hearings under this section.

(B) The hearing shall be in the office in the county of residence of the licensee unless the director and licensee agree to another location for the hearing or agree that the hearing shall be held by telephone conference call.

(4) Based upon the evidence presented at the hearing, the hearing officer shall modify, rescind, or affirm the suspension or revocation of the license.

(5) Hearings conducted by the office under this section are not subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d)(1) The office shall not reinstate the license of a person suspended under this section unless the driver demonstrates to the office that the driver is competent to operate a motor vehicle.

(2) The office shall not grant an application for a new license to a driver whose license has been revoked under this section unless the driver demonstrates to the office that the driver is competent to operate a motor vehicle.

(e) The director may promulgate rules and regulations for the orderly and efficient administration of this section.

**History.** Acts 1937, No. 280, § 25; Pope's Dig., § 6849; Acts 1959, No. 307, § 16; A.S.A. 1947, § 75-329; Acts 1993, No. 445, § 30; 2011, No. 194, § 6.

**Amendments.** The 2011 amendment rewrote (a); in (b), substituted "Upon receipt by the office of evaluations required under subsection (a) of this section" for "Upon the conclusion of the examination" and "the person" for "him or her"; rewrote (c); and inserted (d) and (e).

## **27-16-912. Application for new license following revocation.**

Except as provided in § 27-16-907(c)(2)(C), the Office of Driver Services shall not grant a person's application for a new license until the expiration of one (1) year after the revocation of the person's license.



**History.** Acts 1937, No. 280, § 31; Pope's Dig., § 6855; A.S.A. 1947, § 75-335; Acts 2011, No. 194, § 7.

**Amendments.** The 2011 amendment substituted "Except as provided in § 27-16-907(c)(2)(C), the Office of Driver Ser-

vices shall not grant a person's" for "The Office of Driver Services shall not suspend a license for a period of more than one (1) year and upon revoking a license shall not in any event grant" and added "of the person's license" at the end.

### **27-16-913. Right of appeal to court of record.**

(a)(1) A person denied a license or whose license has been suspended, disqualified, or revoked by the Office of Driver Services, within thirty (30) days of receipt of the decision by the office to deny, suspend, disqualify, or revoke the license, may file a de novo petition of review in the Pulaski County Circuit Court or the circuit court in the county where the licensee or interested person resides.

(2) A copy of the decision of the office shall be attached to the petition.

(3) A copy of the petition shall be served upon the Director of the Department of Finance and Administration in accordance with the Arkansas Rules of Civil Procedure.

(4) A de novo petition to circuit court for review of a decision concerning a license under this section is not subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The filing of a petition of review shall not operate as an automatic stay of the decision of the hearing officer.

(c) If a court issues an order staying the decision or placing the decision in abeyance, the court shall transmit a copy of the order to the office in the same manner that convictions and orders relating to driving records are sent to the office under § 27-16-302.

(d)(1) The circuit judge is vested with jurisdiction to determine whether the petitioner is entitled to a license or whether the decision of the hearing officer should be affirmed, modified, or reversed.

(2) At the hearing, the burden of proof is on the state, and the decision shall be based on a preponderance of the evidence.

**History.** Acts 1937, No. 280, § 34; Pope's Dig., § 6858; A.S.A. 1947, § 75-338; Acts 1987, No. 976, § 2; 2011, No. 194, § 8.

**Amendments.** The 2011 amendment

redesignated former (a) as present (a)(1); inserted "disqualified" and "disqualify" in (a)(1); inserted (a)(2) through (a)(4); rewrote (c); redesignated former (d) as present (d)(1); and inserted (d)(2).

### **CASE NOTES**

**Cited:** *Burdine v. Ark. Dep't of Fin. & Admin.*, 2010 Ark. 455, — S.W.3d — (2010).

**SUBCHAPTER 11 — DRIVER'S LICENSE SECURITY AND MODERNIZATION ACT**

## SECTION.

27-16-1105. Minimum issuance standards for driver's licenses.

27-16-1110. Findings — Purpose of §§ 27-16-1111 and 27-16-1112.

27-16-1111. Expiration of driver's license

## SECTION.

when the applicant is not a United States citizen.

27-16-1112. Expiration of identification card when the applicant is not a United States citizen.

**27-16-1105. Minimum issuance standards for driver's licenses.**

(a)(1) Except as provided under subdivisions (a)(2) and (3), and (b)(1) of this section regarding the renewal, duplication, or reissuance of a driver's license or identification card, to meet the requirements of this section the Office of Driver Services shall require at a minimum presentation of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a nonphoto identity document is acceptable if it includes both the person's full legal name and date of birth;

(B) Documentation showing the person's date of birth;

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number; and

(D) Evidence of legal status that includes valid documentary evidence that the person:

(i) Is a citizen of the United States;

(ii) Is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) Has conditional permanent resident status in the United States;

(iv) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(v) Has a pending or approved application for asylum in the United States;

(vi) Has entered into the United States in refugee status;

(vii) Has a pending or approved application for temporary protected status in the United States;

(viii) Has approved deferred action status; or

(ix) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(2)(A) If ten (10) or more driver's licenses are issued with the same address of residence, the applicant shall present documentation that establishes the person's address of residence.

(B) The documentation requirements under subdivision (a)(2)(A) of this section shall include, but not be limited to:

(i) A lease;

(ii) A mortgage statement; or

(iii) A utility bill.

(3)(A)(i) The office may establish by rule a written and defined exceptions process for a person who is unable to present all the necessary documents for a driver's license or identification card and who must rely upon alternate documents.

(ii) The office shall accept alternate documents only to establish identity or date of birth of the person.

(B) A person wishing to obtain a driver's license or identification card using alternate documents shall demonstrate to the office that the person is relying on alternate documents due to reasons beyond the person's control.

(C)(i) The office shall determine whether the alternate documents presented possess reasonable indications of reliability.

(ii) The alternate documents are subject to reasonable verification by the office.

(b)(1) For purposes of subsection (a) of this section and except as provided in subdivision (b)(2) of this section, the office shall presume that any driver's license or identification card for which an application has been made for renewal, duplication, or reissuance has been issued in accordance with the provisions of subsection (a) of this section if at the time the application was made the driver's license or identification card had not been cancelled, suspended, or revoked.

(2) Subdivision (b)(1) of this section shall not apply to a renewal, duplication, or reissuance of a driver's license or identification card if the office is notified by a local, state, or federal government agency that the person seeking such renewal, duplication, or reissuance is neither a citizen of the United States nor legally in the United States.

(c) To meet the requirements of this section, the office shall implement the following procedures:

(1) The office shall not accept any foreign document other than an official passport to satisfy a requirement of subsection (a) or (b) of this section; and

(2) No later than January 31, 2006, the Director of the Department of Finance and Administration shall enter into a memorandum of understanding with the United States Secretary of Homeland Security to routinely utilize the automated system known as the Verification Information System database of the Systematic Alien Verification for Entitlements Program, as provided by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, to verify the legal presence status of a person other than a United States citizen applying for a driver's license or identification card.

**History.** Acts 2005, No. 2210, § 1; inserted "(a)(3)" in the introductory language of (a)(1); and inserted (a)(3).

**Amendments.** The 2011 amendment



**27-16-1110. Findings — Purpose of §§ 27-16-1111 and 27-16-1112.**

(a) The General Assembly finds that:

(1) Currently, driver's licenses and identification cards are valid for a standard statutory period of time;

(2) An applicant for the issuance or renewal of a driver's license or identification card who is not a citizen of the United States may obtain a driver's license or identification card that is valid for a period that exceeds his or her authorization to be lawfully present in the United States;

(3) The federal government, specifically the United States Immigration and Customs Enforcement, an agency of the Department of Homeland Security, has authority over immigration matters and makes determinations on the length of time that a person who is not a citizen of the United States can remain in the United States; and

(4) A driver's license or identification card that is valid for a period that exceeds the time prescribed by the United States Immigration and Customs Enforcement, an agency of the Department of Homeland Security, can be used to circumvent federal law and cause confusion on the status of the individual to whom it is issued.

(b) The purpose of §§ 27-16-1111 and 27-16-1112 is to ensure that driver's licenses and identification cards issued by the state are not used to circumvent federal immigration laws or federal authority on immigration matters by preventing an applicant for the issuance or renewal of a driver's license or identification card from obtaining an identity document issued by the state that is valid for a period that exceeds the applicant's authorization to be lawfully present in the United States.

**History.** Acts 2009, No. 786, § 1.

**27-16-1111. Expiration of driver's license when the applicant is not a United States citizen.**

(a) If an applicant for a driver's license under this chapter is not a citizen of the United States as provided under § 27-16-1105(a)(1)(D)(ii)-(ix), the expiration date of the driver's license shall be the shortest of:

(1) The period provided for under § 27-16-901(a)(1)(A);

(2) The date shown on the applicant's United States Immigration and Customs Enforcement of the Department of Homeland Security document I-94; or

(3) The last date the applicant may be present in the United States under federal immigration laws, as verified by the Division of Immigration and Customs Enforcement of the Department of Homeland Security.

(b) The Office of Driver Services may renew the driver's license only if it is demonstrated that the applicant's continued presence in the United States is authorized under federal law.

**History.** Acts 2009, No. 786, § 1.

**27-16-1112. Expiration of identification card when the applicant is not a United States citizen.**

(a) If an applicant for an identification card under this chapter is not a citizen of the United States as provided under § 27-16-1105(a)(1)(D)(ii)-(ix), the expiration date of the identification card shall be the shortest of:

- (1) The period provided for under § 27-16-805(b);
- (2) The date shown on the applicant's United States Immigration and Customs Enforcement of the Department of Homeland Security document I-94; or
- (3) The last date the applicant may be present in the United States under federal immigration laws, as verified by the United States Immigration and Customs Enforcement of the Department of Homeland Security.

(b) The Office of Driver Services may renew the card only if it is demonstrated that the applicant's continued presence in the United States is authorized under federal law.

(c) This section shall not limit the Office of Driver Services from issuing an identification card valid for the life of the applicant if he or she is sixty (60) years of age or older as provided under § 27-16-805(b)(2).

**History.** Acts 2009, No. 786, § 1.

**SUBCHAPTER 12 — ARKANSAS VOLUNTARY ENHANCED SECURITY DRIVER'S LICENSE AND IDENTIFICATION CARD ACT**

**SECTION.**

- 27-16-1201. Title.
- 27-16-1202. Purpose.
- 27-16-1203. Definitions.
- 27-16-1204. System development.
- 27-16-1205. Application of statutory provisions governing driver's licenses and identification cards.
- 27-16-1206. Application for voluntary enhanced security driver's license or identification card.
- 27-16-1207. Issuance standards — Proof of physical address.

**SECTION.**

- 27-16-1208. Evidence of lawful status.
- 27-16-1209. Expiration and renewal of voluntary enhanced security driver's licenses and identification cards.
- 27-16-1210. Enhanced security card issuance and renewal fees.
- 27-16-1211. Authority to promulgate rules.
- 27-16-1212. Implementation date.
- 27-16-1213. Expiration.

**Effective Dates.** Acts 2011, No. 350, § 2: June 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is in the interests of Arkan-

sans to continue the issuance of enhanced security driver's licenses and identification cards; that it is sound public policy to extend the expiration of the Arkansas Voluntary Enhanced Security Driver's Li-

cense and Identification Card Act; and that this act is necessary because without an extension of the expiration date, the Arkansas Voluntary Enhanced Security Driver's License and Identification Card

Act will expire on June 30, 2011. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on June 30, 2011."

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### **27-16-1201. Title.**

This subchapter shall be known and may be cited as the "Arkansas Voluntary Enhanced Security Driver's License and Identification Card Act".

**History.** Acts 2009, No. 1308, § 1.

### **27-16-1202. Purpose.**

The purpose of this subchapter is:

(a) To ensure that as an alternative to a driver's license or identification card otherwise issued under Title 27 of the Arkansas Code, Arkansas citizens may have the option of obtaining a driver's license or identification card with additional security features for enhanced identification purposes; and

(b) To ensure that holders of standard driver's licenses and identification cards otherwise issued under this chapter continue to enjoy all rights and privileges to which they are currently entitled under Arkansas law.

**History.** Acts 2009, No. 1308, § 1.

### **27-16-1203. Definitions.**

As used in this subchapter:

(1) "Department" means the Department of Finance and Administration;

(2) "Director" means the Director of the Department of Finance and Administration;

(3) "Voluntary enhanced security commercial driver's license" means a commercial motor vehicle operator's license issued under this subchapter;

(4) "Voluntary enhanced security driver's license" means a motor vehicle operator's license issued under this subchapter; and

(5) "Voluntary enhanced security identification card" means a personal identification card described in this subchapter.

**History.** Acts 2009, No. 1308, § 1.



**27-16-1204. System development.**

(a) Notwithstanding any other provision of law, the Director of the Department of Finance and Administration may perform any system development necessary to implement the requirements of this subchapter.

(b) As used in this section, "system development" includes without limitation the following:

(1) Acquisition of equipment and information technology systems and services;

(2) Modification, conversion, or upgrade of the Department of Finance and Administration's existing databases, equipment, and information technology systems;

(3) Establishment of electronic connectivity with any other state's motor vehicle department, federal agency, association, or business;

(4) Creation of a new design for driver's licenses, driver permits, and identification cards that will meet the minimum content, design, and security standards required by this subchapter;

(5) Collection, management, and retention of personal information and identity documents; and

(6) Development and implementation of a comprehensive security plan to ensure the security and integrity of the department's:

(A) Employees;

(B) Facilities;

(C) Storage systems;

(D) Production of:

(i) Driver's licenses;

(ii) Driver permits; and

(iii) Identification cards; and

(E) Collection and retention of personal information and identity documents.

**History.** Acts 2009, No. 1308, § 1.

**27-16-1205. Application of statutory provisions governing driver's licenses and identification cards.**

(a)(1) In addition to the requirements of this subchapter, the issuance, renewal, and use of a voluntary enhanced security driver's license shall be subject to the requirements and fees for obtaining, renewing, and using a driver's license otherwise issued under this Title 27 of the Arkansas Code.

(2) A voluntary enhanced security driver's license issued under this subchapter may be used for all state purposes authorized for driver's licenses otherwise issued under this Title 27 of the Arkansas Code.

(b)(1) In addition to the requirements of this subchapter, the issuance, renewal, and use of a voluntary enhanced security identification card shall be subject to the requirements and fees for obtaining, renewing, and using a identification card otherwise issued under this Title 27 of the Arkansas Code.

(2) A voluntary enhanced security identification card issued under this subchapter may be used for all state purposes authorized for identification cards otherwise issued under this Title 27 of the Arkansas Code.

(c)(1) In addition to the requirements of this subchapter, the issuance, renewal, and use of a voluntary enhanced security commercial driver's license shall be subject to the requirements and fees for obtaining, renewing, and using a driver's license and identification card otherwise issued under this Title 27 of the Arkansas Code.

(2) A voluntary enhanced security commercial driver's license issued under this subchapter may be used for all state purposes authorized for commercial driver's licenses otherwise issued under this Title 27 of the Arkansas Code.

(d) A voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card issued under this subchapter is subject to this Title 27 or Title 5 of the Arkansas Code concerning the suspension, revocation, and reinstatement of other driver's licenses, commercial driver's licenses, or identification cards.

(e) In addition to the requirements of this subchapter, a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card issued under this subchapter shall be subject to all provisions of the Driver's License Security and Modernization Act, § 27-16-1101 et seq.

(f) If another provision of Arkansas law conflicts with the provisions of this subchapter, the provisions of this subchapter shall control.

**History.** Acts 2009, No. 1308, § 1.

### **27-16-1206. Application for voluntary enhanced security driver's license or identification card.**

(a) As an alternative to applying for the standard driver's license, commercial driver's license, or identification card under other subchapters of this chapter, a person may apply for a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card under this subchapter.

(b) The Office of Driver Services of the Department of Finance and Administration shall not include an electronic chip or any type of radio frequency identification (RFID) tag or chip in any driver's license or identification card or enhanced security driver's license or identification card issued by the Department of Finance and Administration.

(c) The office shall not collect the following biometric data from applicants for any driver's license, identification card, enhanced security driver's license, or enhanced security identification card issued by the department:

(1) Voice data used to compare live speech;

(2) Iris recognition data such as iris scans, texture patterns, or retinal scans;

(3) Keystroke dynamics that measure pressure applied to key pads;

(4) Hand geometry that measures hand characteristics, including the shape and length of fingers in three (3) dimensions; and

(5) Deoxyribonucleic acid (DNA) or ribonucleic acid (RNA).

**History.** Acts 2009, No. 1308, § 1.

### **27-16-1207. Issuance standards — Proof of physical address.**

In addition to the information required under § 27-16-1105, an applicant for a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card under this subchapter must present two (2) of the following documents upon application or renewal that show the name and physical residential address of the applicant:

(1)(A) Utility bill.

(B) Current lease or rental agreement.

(C) Bank statement.

(D) Mortgage statement.

(E) Telephone bill.

(F) Current insurance policy.

(G) State or federal tax return that is less than one (1) year old.

(H) On a formal letterhead, a letter from a bank manager, medical practitioner, accountant, or attorney that states that he or she has known the applicant for three (3) years and that confirms the applicant's physical residential address.

(I) Payslip or salary advice;

(2) Any of the above documents described in subdivisions (a)(1) of this section that contains the name of the spouse of the applicant, together with a certified copy of the applicant's marriage license or marriage certificate; or

(3)(A) Any other documentation the Director of the Department of Finance and Administration determines to be adequate proof of physical address.

(B) The documentation furnished under subdivisions (a)(1) of this section must be less than six (6) months old unless otherwise specified under subsection (a) of this section.

(C) An Arkansas post office box address is not sufficient proof of physical address for purposes of this section.

(D) The director may require additional proof of physical address if the director questions the validity or authenticity of the proof of physical address submitted by the applicant.

**History.** Acts 2009, No. 1308, § 1.



**27-16-1208. Evidence of lawful status.**

The Director of the Department of Finance and Administration shall require before issuing a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card valid documentary evidence that the applicant:

- (1) Is a citizen or national of the United States;
- (2) Is an alien lawfully admitted for permanent or temporary residence in the United States;
- (3) Has conditional permanent resident status in the United States;
- (4) Has an approved application for asylum in the United States or has entered into the United States in refugee status;
- (5) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
- (6) Has a pending application for asylum in the United States;
- (7) Has a pending or approved application for temporary protected status in the United States;
- (8) Has approved deferred action status; or
- (9) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

**History.** Acts 2009, No. 1308, § 1.

**27-16-1209. Expiration and renewal of voluntary enhanced security driver's licenses and identification cards.**

(a) A voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, and voluntary enhanced security identification card issued to a United States citizen or United States national under this subchapter shall expire at the time provided for other driver's licenses, commercial driver's licenses, and identification cards issued under this Title 27 of the Arkansas Code.

(b)(1) Every voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card issued to an applicant other than a United States citizen or United States national shall expire on the date indicated in subsection (b)(2) of this section if the applicant provides valid documentary evidence of legal status that the person:

- (A) Is an alien lawfully admitted for permanent or temporary residence in the United States;
- (B) Has conditional permanent resident status in the United States;
- (C) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
- (D) Has a pending or approved application for asylum in the United States;
- (E) Has entered into the United States in refugee status;

(F) Has a pending or approved application for temporary protected status in the United States;

(G) Has approved deferred action status; or

(H) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(2)(A) If the applicant for issuance or renewal of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card provides valid documentary evidence of legal status with no expiration date, the driver's license or identification card issued shall expire on the end of the month in which the driver's license or identification card was issued one (1) year from its date of initial issuance.

(B) If the applicant for issuance or renewal of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card provides valid documentary evidence of legal status containing an expiration date, the driver's license or identification card issued shall expire on the earlier to occur of the following:

(i) The date of expiration indicated on the person's valid documentary evidence of legal status; or

(ii) The expiration date listed in subdivisions (b)(1) or (b)(2)(A) of this section.

(3) The Office of Driver Services of the Department of Finance and Administration shall verify the legal presence of an applicant for renewal of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card of a person included in subdivisions (b)(1) or (b)(2)(A) of this section by utilizing the automated system known as the Verification Information System database of the Systematic Alien Verification for Entitlements Program, as provided by section 404 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

(c) A voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card issued under this section must be renewed at the end of the period specified in subsections (a) and (b) of this section and, to the extent applicable, other renewal provisions in this chapter.

(d) The Director of the Department of Finance and Administration may by rule shorten or lengthen the term of any driver's license or identification card period under this section, as necessary, to ensure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year.

**History.** Acts 2009, No. 1308, § 1.

**U.S. Code.** Section 404 of the Illegal Immigration Reform and Immigration Re-

sponsibility Act of 1996, referred to in (b)(3), can be found in Pub. L. No. 104-208.

**27-16-1210. Enhanced security card issuance and renewal fees.**

(a) The fee for the initial issuance of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card under this subchapter is the same as the fee for initial issuance of other driver's licenses, commercial driver's licenses, and identification cards listed in this Title 27 of the Arkansas Code.

(b) The fee for the renewal of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card under § 27-16-1209(a) is the same as the fee for renewal of other driver's licenses, commercial driver's licenses, and identification cards listed in this Title 27 of the Arkansas Code.

(c) The fee for the renewal of a voluntary enhanced security driver's license, voluntary enhanced security commercial driver's license, or voluntary enhanced security identification card under § 27-16-1209(b) is the same as the fee for renewal of other driver's licenses, commercial driver's licenses, and identification cards listed in this chapter, subject to a pro rata reduction in the renewal fee for any shortened renewal period under § 27-16-1209(b).

(d) The renewal fee for a license or identification card that expires as provided in § 27-16-1209(b)(2) is an amount calculated by multiplying the amount of a renewal fee whose term is not shortened by a fraction whose numerator is the number of months for which the renewal license or identification card is issued and whose denominator is the number of months that would have applied had the renewal time not been shortened.

**History.** Acts 2009, No. 1308, § 1.

**27-16-1211. Authority to promulgate rules.**

The Director of the Department of Finance and Administration may promulgate any necessary rules to carry out this subchapter, subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 2009, No. 1308, § 1.

**27-16-1212. Implementation date.**

(a) This subchapter shall be effective and shall be implemented only if the Director of the Department of Finance and Administration:

(1) Determines that the voluntary enhanced identification and security features under this subchapter are necessary to ensure secure commerce and travel by Arkansas citizens within and throughout the State of Arkansas, the United States, and abroad;

(2) Determines that Congress has not repealed the federal REAL ID Act of 2005, 49 U.S.C. § 30301 note (Pub. L. 109-13 of 2005); and



(3) Promulgates a rule specifying the date of implementation of this subchapter.

**History.** Acts 2009, No. 1308, § 1.

**27-16-1213. Expiration.**

(a) This subchapter expires on June 30, 2013, or on the date Congress repeals the federal REAL ID Act of 2005; 49 U.S.C. § 30301 note (Pub. L. 109-13 of 2005), whichever date is earlier.

(b) The Office of Motor Vehicle shall not issue or renew an enhanced security driver's license, enhanced security commercial driver's license, or enhanced security identification card after the expiration of this subchapter.

(c) An enhanced security driver's license, enhanced security commercial driver's license, or enhanced security identification card issued before the expiration date of this subchapter and that the normal expiration date falls after the expiration date of this subchapter shall remain valid for the full duration of the license period.

**History.** Acts 2009, No. 1308, § 1; June 30, 2013" for "The provisions of this subchapter shall expire on June 30, 2011" 2011, No. 350, § 1.

**Amendments.** The 2011 amendment substituted "This subchapter expires on in (a).

**CHAPTER 20**

**OPERATION OF MOTORIZED CYCLES AND ALL-TERRAIN VEHICLES**

**SUBCHAPTER**

- 1. MOTORCYCLES, MOTOR-DRIVEN CYCLES, AND MOTORIZED BICYCLES.
- 3. ELECTRIC AUTOCYCLES.

**SUBCHAPTER 1 — MOTORCYCLES, MOTOR-DRIVEN CYCLES, AND MOTORIZED BICYCLES**

**SECTION.**

- 27-20-104. Standard equipment required.
- 27-20-111. Operation of motorized bicycles regulated — Certificate.

**SECTION.**

- 27-20-119. Autocycles.

**27-20-104. Standard equipment required.**

(a) After July 5, 1977, all motor-driven cycles and all motorcycles used upon the public streets and highways of this state shall be equipped with the following standard equipment:

(1) At least one (1), but not more than two (2), headlights that in the dark emit a white light visible from a distance of at least five hundred feet (500') in front;

(2) A red reflector on the rear that is visible from a distance of three hundred feet (300') to the rear when directly in front of a lawful upper-beam head lamp of a motor vehicle;

(3) A lamp that emits a red light visible from a distance of five hundred feet (500') to the rear must be used in addition to the red reflector provided above;

(4) Good hand or foot brakes;

(5) A horn in good working order, but no bell, siren, or whistle shall be permitted;

(6) A standard muffler;

(7) Handholds and support for the passenger's feet when designed to carry more than one (1) person, unless it is equipped with a sidecar; and

(8) Electrical turn signals that meet the requirements of § 27-36-216(b).

(b) All passengers and operators of motorcycles, motor-driven cycles, and motorized bicycles used upon the public streets and highways of this state shall be equipped with the following equipment under standards set forth by the Office of Motor Vehicle:

(1) Protective headgear unless the person is twenty-one (21) years of age or older; and

(2) Protective glasses, goggles, or transparent face shields.

(c) The provisions of this section shall not apply to three-wheel motorcycles equipped with a cab and a windshield which do not exceed twenty horsepower (20 hp) when such motorcycles are used by municipal police departments.

(d) After July 5, 1977, all motorized bicycles used upon the public streets of this state shall be equipped with the following standard equipment:

(1) At least one (1), but not more than two (2), headlights that in the dark emit a white light visible from a distance of at least two hundred fifty feet (250') in front;

(2) A red reflector on the rear that is visible from a distance of one hundred fifty feet (150') to the rear when directly in front of a lawful upper beam head lamp of a motor vehicle;

(3) A lamp emitting a red light visible from a distance of two hundred fifty feet (250') to the rear must be used in addition to the red reflector provided above;

(4) Good hand or foot brakes;

(5) A horn in good working order, provided that no bell, siren, or whistle shall be permitted;

(6) A standard muffler; and

(7) Electrical turn signals that meet the requirements of § 27-36-216(b).

**History.** Acts 1959, No. 201, § 3; 1967, No. 296, § 1; 1973, No. 78, § 1; 1977, No. 561, § 2; 1985, No. 972, § 6; A.S.A. 1947, § 75-1703; Acts 1997, No. 453, § 1; 2005, No. 1762, § 2; 2011, No. 759, §§ 1, 2.

**Amendments.** The 2011 amendment inserted (a)(8) and (d)(7).

### 27-20-111. Operation of motorized bicycles regulated — Certificate.

(a) The operators of motorized bicycles shall be subject to all state and local traffic laws, ordinances, and regulations.

(b) It shall be unlawful for any person to operate a motorized bicycle upon interstate highways, limited access highways, or sidewalks.

(c)(1)(A) It shall be unlawful for any person to operate a motorized bicycle upon a public street or highway within this state unless the person has a certificate to operate such a vehicle.

(B) Any person who has a motor-driven cycle license or motorcycle license or a Class A, Class B, Class C, or Class D license shall qualify to operate a motorized bicycle and is not required to obtain a certificate from the Department of Arkansas State Police for the operation of a motorized bicycle.

(2)(A)(i) All motorized bicycle certificates shall be issued by the department.

(ii) No certificate shall be issued to a person under fourteen (14) years of age.

(iii) A person under fourteen (14) years of age shall not operate a motorized bicycle within a municipality with a population of ten thousand (10,000) or more.

(B) Prior to being issued a certificate to operate a motorized bicycle, the applicant shall take and pass an examination pertaining to the rules of the road, a vision test, and a road test.

(C)(i) The department shall charge a fee of two dollars (\$2.00) for each certificate issued.

(ii) The proceeds from these fees shall be deposited into the State Treasury as special revenues and credited to the Department of Arkansas State Police Fund.

**History.** Acts 1977, No. 561, § 3; 1985, No. 972, § 4; A.S.A. 1947, §§ 75-1714, 75-1714.1; Acts 1987, No. 410, § 1; 1993, No. 445, § 35; 2011, No. 1221, § 1.

**Amendments.** The 2011 amendment substituted “fourteen (14)” for “ten (10)” in (c)(2)(A)(ii); and inserted (c)(2)(A)(iii).

### 27-20-119. Autocycles.

The requirements and regulation of autocycles shall be as provided under the Electric Autocycle Act, § 27-20-301 et seq.

**History.** Acts 2009, No. 636, § 2.

## SUBCHAPTER 3 — ELECTRIC AUTOCYCLES

#### SECTION.

27-20-301. Title.

27-20-302. Purpose.

27-20-303. Definitions.

27-20-304. Registration and licensing — Fees.

#### SECTION.

27-20-305. Subject to the rules of the road.

27-20-306. Operation requirements — Passengers.

27-20-307. Operation limitations.



## SECTION.

27-20-308. Rules.

**27-20-301. Title.**

This subchapter shall be known and may be cited as the "Electric Autocycle Act".

**History.** Acts 2009, No. 636, § 1.

**27-20-302. Purpose.**

The purpose of this subchapter is to:

(1) Allow the registration and licensing of autocycles as an environmentally friendly option for Arkansans to provide an affordable transportation option that will reduce our dependency on foreign oil; and

(2) Provide economic stimulus to the emerging industry of autocycles.

**History.** Acts 2009, No. 636, § 1.

**27-20-303. Definitions.**

As used in this subchapter:

(1)(A) "Autocycle" means a motorized cycle that exclusively uses a motor operated by electricity, is a zero-emission vehicle, and is:

(i) At least sixty inches (60") in width;

(ii) Not more than one hundred thirty-five inches (135") in length;

(iii) At least one thousand pounds (1,000 lbs.) in unladen weight;

(iv) Equipped with:

(a) Three (3) low pressure tires;

(b) A steering wheel;

(c) Seating for at least one (1) person but not more than four (4) persons;

(d) A fully-enclosed metal or metal-reinforced cab with glass and mirrors that complies with § 27-37-301 et seq. regarding safety glass and mirrors;

(e) Doors with functioning handle locks that are similar to the handle locks on motor vehicles;

(f) Headlights as required under § 27-20-104(d)(1);

(g) Tail lamps as required under § 27-20-104(d)(3);

(h) Brakes as required under § 27-20-104(d)(4);

(i) A working horn as required under § 27-20-104(d)(5);

(j) Signal lamps as provided under § 27-36-216; and

(k) Seat belts as provided under § 27-37-701 et seq.

(B) An autocycle shall not be required to have a muffler because it is a zero-emission electric vehicle.

(C) An autocycle may be equipped with a bed or cargo box for hauling materials.

(D) An autocycle is a motor vehicle for the purposes of minimum insurance liability under the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., and § 27-22-101 et seq.

(E) An autocycle is not an all-terrain vehicle under § 27-20-201 et seq. and § 27-21-101 et seq.; and

(2) "Low pressure tire" means a pneumatic tire that conforms to the manufacturer's specifications for the autocycle and is comparable to the tires used on other motor vehicles.

**History.** Acts 2009, No. 636, § 1.

**Cross References.** All terrain vehicles, § 27-21-101 et seq.

Glass and mirror provisions, § 27-37-301 et seq.

Mandatory seat belt use, § 27-37-701 et seq.

Motor vehicle liability insurance, § 27-22-101 et seq.

Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

Signal lamps and signal devices § 27-36-216.

Standard equipment required § 27-20-104.

Three-wheeled, four-wheeled, and six-wheeled all-terrain vehicles, § 27-20-201 et seq.

## 27-20-304. Registration and licensing — Fees.

(a) The owner of an autocycle may register and license it as a motorcycle under § 27-20-105.

(b) In addition to the application to register the autocycle, the owner of an autocycle shall provide proof of insurance as required under the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., and § 27-22-101 et seq.

(c) The fee for registering and licensing an autocycle shall be five dollars (\$5.00).

**History.** Acts 2009, No. 636, § 1.

**Cross References.** Motor vehicle liability insurance, § 27-22-101 et seq.

Motor Vehicle Safety Responsibility Act,

§ 27-19-101 et seq.

Registration and renewal periods, § 27-20-105.

## 27-20-305. Subject to the rules of the road.

The operator of an autocycle that is registered and licensed under this section shall comply with and is subject to the same penalties for violating the rules of the road as provided under § 27-51-101 et seq.

**History.** Acts 2009, No. 636, § 1.

**Cross References.** General provisions

of rules of the road in operating vehicles,

§ 27-51-101 et seq.

## 27-20-306. Operation requirements — Passengers.

(a)(1) If the operator of an autocycle is eighteen (18) years of age or older, the operator shall have a valid driver's license and shall not be required to have the motorcycle endorsement required under § 27-20-106.

(2)(A) If the operator of an autocycle is under eighteen (18) years of age, the operator shall have a valid instruction permit, learner's license, or intermediate license.

(B) An operator of an autocycle under eighteen (18) years of age shall comply with all requirements concerning the permit or license that he or she holds.

(b) The mandatory seat belt use under § 27-37-701 et seq. shall apply to the operator and all passengers in the autocycle.

(c) An operator of or passenger in an autocycle is not required to comply with § 27-20-104(b) requiring:

(1) Protective headgear; or

(2) Protective glasses, goggles, or transparent face shields.

(d)(1) An operator of the autocycle shall have not more than three (3) passengers in the autocycle.

(2) The requirements of § 27-20-110 shall not apply to autocycles.

(e)(1) A child may be a passenger in an autocycle and § 27-20-118 shall not apply to autocycles.

(2) If applicable because of the child's age or weight, the child shall be restrained as provided under the Child Passenger Protection Act, § 27-34-101 et seq.

**History.** Acts 2009, No. 636, § 1.

**Cross References.** Child Passenger Protection Act, § 27-34-101 et seq.

Mandatory seat belt use, § 27-37-701 et seq.

Manner of riding, § 27-20-110.

Operator's license required; special license, § 27-20-106.

Restrictions on young children, § 27-20-118.

Standard equipment required, § 27-20-104.

## 27-20-307. Operation limitations.

(a) An autocycle shall not be operated on an interstate highway.

(b) An autocycle shall not be operated on a road or highway if:

(1) The operation of autocycles or motorcycles is prohibited;

(2) The road is a controlled-access highway;

(3) The posted speed limit is more than fifty-five (55) miles per hour; or

(4) The autocycle cannot maintain a speed equal to the posted speed limit.

**History.** Acts 2009, No. 636, § 1.

## 27-20-308. Rules.

The Department of Finance and Administration may adopt rules for the implementation and administration of this subchapter.

**History.** Acts 2009, No. 636, § 1.



## CHAPTER 21

### ALL-TERRAIN VEHICLES

#### SECTION.

27-21-102. Definitions.

27-21-106. Operation on public streets  
and highways unlawful —  
Exceptions.

#### 27-21-102. Definitions.

As used in this chapter:

(1)(A) "All-terrain vehicle" means a vehicle that:

- (i) Has three (3), four (4), or six (6) wheels;
- (ii) Is fifty inches (50") or less in width;
- (iii) Is equipped with nonhighway tires;
- (iv) Is designed primarily for off-road recreational use; and
- (v) Has an engine displacement of no more than one thousand cubic centimeters (1,000 cc).

(B) "All-terrain vehicle" includes a recreational off-highway vehicle.

(C) "All-terrain vehicle" does not include a golf cart, riding lawnmower, or lawn or garden tractor;

(2) "Nonhighway tire" means a pneumatic tire:

- (A) Six inches (6") or more in width;
- (B) Designed for use on a wheel with a rim diameter of fourteen inches (14") or less; and

(C) That uses an operating pressure of twenty pounds per square inch (20 psi) or less as recommended by the vehicle manufacturer;

(3) "Public streets and highways" means the part of the street, road, or highway, including the improved road shoulder, that is open to vehicular traffic and that is maintained by the state or by a political subdivision of the State of Arkansas and includes any federal highways; and

(4)(A) "Recreational off-highway vehicle" means a vehicle that:

- (i) Has four (4) or six (6) wheels;
- (ii) Is seventy-five inches (75") or less in width;
- (iii) Is equipped with nonhighway tires;
- (iv) Is designed primarily for off-road recreational use; and
- (v) Has an engine displacement of no more than one thousand cubic centimeters (1,000 cc).

(B) "Recreational off-highway vehicle" does not include a golf cart, riding lawnmower, or lawn or garden tractor.

**History.** Acts 1987, No. 804, § 2; 2007, No. 305, § 9; 2011, No. 583, § 1.

**Amendments.** The 2011 amendment subdivided (1); added "a vehicle that" at the end of (1)(A); substituted "Has three (3), four (4), or (6) wheels" for "every

three-wheeled, four-wheeled, or six-wheeled vehicle" in (1)(A)(i); substituted "Is fifty inches (50")" for "seventy-five (75")" in (1)(A)(ii); substituted "nonhighway" for "low pressure" in (1)(A)(iii); inserted (1)(B); subdivided part of (2); sub-

stituted "Nonhighway tire" for "Low (2)(B); in (2)(C), substituted "twenty" for pressure tire" in (2); substituted "fourteen (2)(B); in (2)(C), substituted "twenty" for "ten" and "(20 psi)" for "(10 psi)"; and inches (14") for "twelve inches (12")" in added (4).

## **27-21-106. Operation on public streets and highways unlawful — Exceptions.**

(a) It is unlawful for any person to operate an all-terrain vehicle on the public streets and highways of this state, even if the vehicle otherwise meets the equipment standards of § 27-20-104, except under the following conditions and circumstances:

(1) A person may operate an all-terrain vehicle on the public streets and highways if the vehicle is:

(A) Used in farming or hunting operations; and

(B) Operated on the public streets and highways in order to get from one (1) field to another;

(2)(A) An all-terrain vehicle may be operated upon the public streets or highways if the:

(i) Vehicle needs to make a direct crossing of the street or highway to get from one (1) area to another; and

(ii) Vehicle:

(a) Comes to a complete stop;

(b) Yields the right-of-way to all oncoming traffic that constitutes an immediate hazard; and

(c) Crosses the street or highway at an angle of approximately ninety degrees (90°) to the direction of the street or highway.

(B)(i) In crossing divided highways, the crossing may be made only at an intersection of the highway with another public street or highway.

(ii) In crossings made between the hours from one-half (½) hour after sunset to one-half (½) hour before sunrise or in conditions of reduced visibility, the crossing may be made only with both front and rear lights turned on;

(3)(A) A person who has lost one (1) or both legs above the ankle or who otherwise has a serious walking handicap shall be permitted to operate a three-wheeled, four-wheeled, or six-wheeled all-terrain vehicle as a means of transportation on any of the following:

(i) A nonhard surfaced road;

(ii) The shoulders of all state and federal highways, except as provided under subdivision (a)(3)(E) of this section; or

(iii) Public streets and roads when traveling on the public street or road is the most reasonable route of access available to him or her from one (1) off-road trail to another off-road trail or from his or her private property to an off-road trail.

(B) An all-terrain vehicle used as provided under subdivision (a)(3)(A) of this section by a person who has a serious walking handicap shall be equipped with a red flag at least six inches (6") wide and twelve inches (12") long on a pole or staff extending at least thirty-six inches (36") above the level of the seat.

(C) For the purposes of this subdivision (a)(3), “serious walking handicap” means any walking handicap certified as serious by a licensed physician.

(D) A person operating an all-terrain vehicle as provided under subdivision (a)(3)(A) of this section shall carry on his or her person or on the vehicle the physician’s certificate certifying that the person has a serious walking handicap.

(E) A person operating an all-terrain vehicle as provided under subdivision (a)(3)(A) of this section shall not operate the all-terrain vehicle on any part of the federal interstate highway system or on fully-controlled access highways;

(4) An on-duty law enforcement officer or a person performing an official law enforcement function may operate an all-terrain vehicle on public streets and highways; and

(5) An employee of a utility, telecommunications, or cable company working during a time of emergency or severe weather may operate an all-terrain vehicle on public streets and highways.

(b) When two (2) or more all-terrain vehicles are operating together on a public street or highway as permitted in limited circumstances in this chapter, the vehicles shall be operated in single file except while overtaking another vehicle. The operator of an all-terrain vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left until safely clear of the overtaken vehicle. Nothing in this subsection shall be construed to prohibit an operator from overtaking and passing upon the right another vehicle which is making or about to make a left turn if the overtaking and passing is accomplished in accordance with Arkansas law.

**History.** Acts 1987, No. 804, § 3; 1987, No. 1029, §§ 1, 2; 2007, No. 305, § 10; 2009, No. 701, § 1; 2011, No. 13, § 1; 2011, No. 704, § 1.

**Amendments.** The 2009 amendment, in (a)(3), inserted (a)(3)(A)(iii) and redesignated the remaining text accordingly; rewrote (a)(3)(A)(ii); substituted “An all terrain vehicle used as provided under subdivision (a)(3)(A) of this section” for “Each vehicle, while being ridden on a non-hard surfaced road or on the right-of-way of a state or federal highway as authorized in this subdivision” in (a)(3)(B); substituted “A person operating an all-terrain vehicle as provided under

subdivision (a)(3)(A) of this section” for “Any person operating an all-terrain vehicle on a non-hard surfaced road or on the right-of-way of a state or federal highway pursuant to the authority granted in this subdivision (a)(3)” in (a)(3)(D); inserted (a)(3)(E); and made related and minor stylistic changes.

The 2011 amendment by No. 13 subdivided (a)(1) and (2); substituted “A person may operate an all-terrain vehicle” for “an all-terrain vehicle may be operated” in the introductory language of (a)(1); and added (a)(4).

The 2011 amendment by No. 704 added (a)(5).



## CHAPTER 22

### MOTOR VEHICLE LIABILITY INSURANCE

#### SECTION.

27-22-103. Penalty.

27-22-104. Insurance required — Minimum coverage.

27-22-107. Motor vehicle insurance reporting.

27-22-109. Impounding a motor vehicle for a violation.

#### SECTION.

27-22-110. Hold on release from storage facility authorized.

27-22-111. Fine for failure to present proof of insurance at time of traffic stop.

### 27-22-101. Legislative intent — Applicability.

#### CASE NOTES

#### Exclusion.

Legislature's intent is clear as stated in subsection (a) of this section, and that the compulsory insurance law of the Arkansas Code was not intended in any way to alter or affect the validity of any policy provisions, exclusions, exceptions, or limitations of automobile insurance policies; the trial court erred in granting the claim-

ants' motions for summary judgment on grounds that the eluding lawful arrest exclusion violated public policy as set forth in the compulsory insurance law. *S. Farm Bureau Cas. Ins. Co. v. Easter*, 374 Ark. 238, 287 S.W.3d 537 (2008), rehearing denied, — Ark. —, — S.W.3d —, 2008 Ark. LEXIS 559 (Oct. 23, 2008).

### 27-22-103. Penalty.

(a) Except as provided in subsection (b) of this section, any person who operates a motor vehicle within this state shall be subject to a mandatory fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250) unless both the vehicle and the person's operation of the vehicle are covered by a certificate of self-insurance or an insurance policy as required under § 27-22-104(a)(1).

(b)(1) Any person who operates a motor vehicle in violation of § 27-22-104(a)(1) shall be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) for the second offense, and the minimum fine shall be mandatory.

(2) Any person who operates a motor vehicle in violation of § 27-22-104(a)(1) shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or sentenced to one (1) year in jail, or both, for the third offense or for any subsequent offenses.

(3) Upon a showing that liability coverage required by §§ 27-22-101 — 27-22-104 was in effect at the time of arrest, the judge may dismiss the charge imposed under this act, and the penalties therefore shall not be imposed.

(4)(A)(i) If the person is unable to establish that liability coverage required by §§ 27-22-101 — 27-22-104 is in effect at the time of the disposition of the charge, the judge or clerk of the court shall prepare and transmit to the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration an order suspending

the registration of the motor vehicle involved in the violation until such time as the person presents proof of coverage to the Office of Motor Vehicle.

(ii) The order shall include:

- (a) The name and address of the person charged;
- (b) The driver's license number, if any, of the person charged;
- (c) The vehicle identification number or license plate number of the motor vehicle involved;
- (d) The date of the hearing;
- (e) The judgment of the court; and
- (f) The amount of the fine.

(iii) The judge or clerk of the court shall prepare and transmit an order under subdivision (b)(4)(A)(i) of this section within five (5) business days after the plea or judgment is entered.

(B)(i) In order to reinstate the suspended registration for any suspended motor vehicle, the owner shall present proof of the requisite liability coverage to the Office of Motor Vehicle and shall pay to the Office of Motor Vehicle a fee of twenty dollars (\$20.00) for reinstatement of the registration.

(ii) The revenues derived from this reinstatement fee shall be deposited as a special revenue into the State Central Services Fund and credited as a direct revenue to be used by the Office of Motor Vehicle to offset the costs of administering this section.

(iii) This fee shall be in addition to any other fines, fees, or other penalties for other violations of this subchapter.

(c) If the arresting officer is:

(1) An officer of the Department of Arkansas State Police, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Department of Arkansas State Police Fund to be used for the purchase and maintenance of state police vehicles;

(2) A county law enforcement officer, the fine collected shall be deposited in that county fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, life-saving medical apparatus, and law enforcement apparatus to be used for those purposes; or

(3) A municipal law enforcement officer, the fine collected shall be deposited in that municipal fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, life-saving medical apparatus, and law enforcement apparatus to be used for those purposes.

**History.** Acts 1987, No. 442, § 2; 1987, No. 474, § 1; 1989, No. 801, § 1; 1991, No. 988, §§ 3, 5; 1997, No. 991, § 1; 2001, No. 1408, § 3; 2003, No. 1765, § 34; 2007, No. 485, §§ 2, 9; 2011, No. 1046, § 1.

**Amendments.** The 2011 amendment added (b)(4).

### **27-22-104. Insurance required — Minimum coverage.**

(a)(1) It is unlawful for a person to operate a motor vehicle within this state if both the motor vehicle and the person's operation of the motor vehicle are not covered by:

(A) A certificate of self-insurance under § 27-19-107; or

(B) An insurance policy issued by an insurance company authorized to do business in this state.

(2) Failure to present proof of insurance coverage at the time of arrest or a failure of the Vehicle Insurance Database or proof of an insurance card issued under § 23-89-213 to show current insurance coverage at the time of the traffic stop creates a rebuttable presumption that the motor vehicle or the person's operation of the motor vehicle is uninsured.

(b) The policy shall provide at a minimum the following coverage:

(1) Not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident;

(2) Not less than fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident; and

(3) If the accident results in damage to or destruction of property, not less than twenty-five thousand dollars (\$25,000) for the damage to or destruction of property of others in any one (1) accident.

(c)(1) For purposes of this subsection, "operating motor vehicle" means a motor vehicle that is actually driven out of the government-owned and government-operated storage facility under its own power.

(2) A government-owned and government-operated storage facility for motor vehicles may refuse to release an operating motor vehicle from the storage facility if the owner of the motor vehicle cannot establish that the motor vehicle is covered by insurance as required under this section.

(3) The following are exempt from the requirements of this subsection:

(A) A motor vehicle that is considered salvage;

(B) A motor vehicle when an insurer holds the title to the motor vehicle; and

(C) A motor vehicle that is not driven out of the government-owned and government-operated storage facility under its own power.

**History.** Acts 1987, No. 442, § 1; 1987, No. 474, § 1; 1991, No. 988, § 4; 1993, No. 357, § 1; 1997, No. 991, § 2; 1999, No. 1527, § 6; 2005, No. 2246, § 1; 2007, No. 485, §§ 3-5, 9; 2009, No. 313, § 1; 2011, No. 1046, § 2.

**Amendments.** The 2009 amendment added (i).

The 2011 amendment rewrote (a)(1); substituted "damage" for "injury" in (b)(3); deleted former (c) through (h); and redesignated former (i) as present (c).



## CASE NOTES

**Cited:** S. Farm Bureau Cas. Ins. Co. v. Easter, 374 Ark. 238, 287 S.W.3d 537 (2008).

**27-22-107. Motor vehicle insurance reporting.**

(a)(1) Each insurance company providing motor vehicle liability insurance coverage required under § 27-22-104(a), shall provide before the seventh day of each calendar month to the Revenue Division of the Department of Finance and Administration a record of each motor vehicle insurance policy in effect as of the previous month that was issued by the insurance company. The reports shall be provided to the division through any means of electronic or electromagnetic medium available to and approved by the department, unless the insurance company qualifies for an exception to this electronics reporting requirement as a result of being a small or low-volume insurer as may otherwise be provided for under regulations promulgated by the Department of Finance and Administration.

(2)(A) The Director of the Department of Finance and Administration may choose a vendor to provide an online insurance verification system which will comply with the industry standards as recommended by the Insurance Industry Committee for Motor Vehicle Administration (IICMVA) when there are two or more vendors that demonstrate to the department the ability to meet the IICMVA standard.

(i) The department shall notify each insurance company in writing of the chosen vendor. If the insurance company elects to participate in the online insurance verification system that complies with the industry standards, the company may then work with the vendor and the department on an agreeable schedule to convert to the new system.

(ii) If an insurance company elects to participate in the online insurance verification system, then the insurance company will be exempt from providing the report before the seventh day of each calendar month as the department and law enforcement will be able to obtain data online in real time.

(B) If the director certifies that seventy percent (70%) or more of the motor vehicle insurance policies in effect on a specific date are being accessed according to the industry standards in the online insurance verification system, each insurance company shall provide access to the data through the online insurance verification system.

(C) At the discretion of the department, rules and regulations may be established to offer insurers who write fewer policies an alternative method for reporting insurance policy data.

(D) The department shall select a vendor under the Arkansas Procurement Law § 19-11-201 et seq.

(b)(1) The reports shall include:

(A) The name and the address of the named insured;

(B) The make, year, and vehicle identification number of each insured vehicle; and

(C) The policy number, effective date, and expiration date of each policy, National Association of Insurance Carriers code number, and the name of each driver excluded from coverage.

(2) The reports may include:

(A) The date of birth of each insured owner or operator; and

(B) The driver's license number of each insured owner or operator.

(c) The department may, following procedures set forth in regulations promulgated by the department, assess a penalty against each insurance company of up to two hundred fifty dollars (\$250) for each day the insurance company fails to comply with this section. If an insurance company shows that the failure to comply with this section was inadvertent, accidental, outside of the control of the company, or the result of excusable neglect, the Director of the Department of Finance and Administration may excuse the penalty. The moneys collected from these penalties shall be deposited as a special revenue into the State Central Services Fund, and the net amount shall be credited as a direct revenue to be used by the department to offset the costs of administering this section.

(d) The department shall promulgate necessary rules and regulations for the administration of this section.

**History.** Acts 1997, No. 991, § 4; 2007, No. 485, §§ 8, 9; 2009, No. 476, § 2.

**Amendments.** The 2009 amendment, in (a), inserted (a)(2), redesignated the

remaining text accordingly, deleted "Beginning January 1, 1998" at the beginning of (a)(1), and made related and minor stylistic changes.

## **27-22-109. Impounding a motor vehicle for a violation.**

(a)(1) If an operator of a motor vehicle is unable to present proof of insurance coverage to a law enforcement officer as required under § 27-22-104, the motor vehicle may be impounded at the officer's discretion if the officer issues a citation for a traffic violation that is classified as an offense under § 27-50-302 and the operator has:

(A) Received three (3) or more warnings for a violation of § 27-22-104;

(B) Pleaded guilty or nolo contendere to or been found guilty of three (3) or more violations of § 27-22-104; or

(C) Received a total of three (3) or more warnings for a violation of § 27-22-104 or convictions for a violation of § 27-22-104.

(2) If an operator of a motor vehicle is unable to present proof of insurance coverage to a law enforcement officer as required under § 27-22-104, the motor vehicle may be impounded at the officer's discretion if one (1) or more of the following occur:

(A) The driver is operating a motor vehicle on a cancelled, suspended, or revoked driver's license in violation of § 27-16-303;

(B) The driver is operating the motor vehicle without a driver's license in violation of § 27-16-602; or

- (C) The driver is operating a motor vehicle:
  - (i) Without a license plate in violation of § 27-14-304;
  - (ii) With an unofficial license plate in violation of § 27-14-305;
  - (iii) With improper use of evidence of registration in violation of § 27-14-306; or
  - (iv) With false evidences of title or registration in violation of § 27-14-307.
- (b) If a motor vehicle is impounded under this section:
  - (1) The law enforcement agency shall use its towing policy as required for the towing and storage of motor vehicles under § 27-50-1207 and a towing rotation list if applicable;
  - (2) The provisions of § 27-50-1201 et seq. regarding the towing and storage of motor vehicles shall apply;
  - (3) An inventory of the contents of the motor vehicle shall be taken; and
  - (4) The owner, operator, or other person in charge of the vehicle:
    - (A) Has the right to contest the impoundment; and
    - (B) Shall be given notice at the time of impoundment of the right to contest the impoundment consistent with § 27-50-1207.
- (c)(1) If a motor vehicle is properly and lawfully impounded under this section, the following are responsible for all reasonable towing, recovery, storage, and other incidental costs:
  - (A) The operator of the vehicle;
  - (B) The owner of the vehicle; or
  - (C) Both the owner and the operator of the vehicle.
- (2) This subsection applies even if the owner has insurance but fails to present proof of insurance.

**History.** Acts 2011, No. 1046, § 3.

### **27-22-110. Hold on release from storage facility authorized.**

- (a) For purposes of this section:
  - (1) “Operational motor vehicle” means a motor vehicle that is driven under its own power out of a storage facility; and
  - (2) “Proof of compliance” means:
    - (A) An order of a court of competent jurisdiction issued under § 27-22-103(b);
    - (B) A certificate of self-insurance under § 27-19-107; or
    - (C) An insurance policy that meets the requirements of § 27-22-104.
- (b)(1) A law enforcement agency that impounds a motor vehicle under § 27-22-109 may place a hold on the release of an operational motor vehicle from a storage facility consistent with § 27-50-1206(a)(3) until the owner or operator of the motor vehicle provides proof of compliance to the law enforcement agency.
- (2) If the owner or operator provides proof of compliance to the law enforcement agency, the law enforcement agency shall release the hold on the vehicle and notify the storage facility in writing of the release.



(c) The following vehicles are exempt from a hold on release under this section:

(1) A salvage vehicle as defined under § 27-14-2301 that is acquired by an insurance company;

(2) A motor vehicle that is incapable of being driven out of the storage facility under its own power and is removed by a towing firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board;

(3) A motor vehicle acquired by a lienholder if the lienholder provides to the law enforcement agency:

(A) A sworn statement in the form of either a repossession title or an affidavit that the lienholder is entitled to take immediate possession of the vehicle; and

(B) If the vehicle is to be driven from the storage facility, proof of insurance coverage as required under § 27-22-104; or

(4) A motor vehicle acquired subsequent to impounding by a transferee if the transferee provides to the law enforcement agency:

(A) A sworn statement in the form of an affidavit that the transferee has obtained all right, title, and interest in the vehicle;

(B) A copy of the document transferring ownership of the vehicle; and

(C) If the vehicle is to be driven from the storage facility, proof of insurance coverage as required under § 27-22-104.

**History.** Acts 2011, No. 1046, § 3.

### **27-22-111. Fine for failure to present proof of insurance at time of traffic stop.**

(a) After a traffic stop has been completed, if an operator of a motor vehicle proves that the liability coverage required by §§ 27-22-101 — 27-22-104 was in effect at the time of the traffic stop, the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished by a fine of twenty-five dollars (\$25.00).

(b) Court costs under § 16-10-305 or other costs or fees shall not be assessed under this section.

(c) The fines collected under this section shall be distributed as follows:

(1) Eighty percent (80%) shall be paid to the Treasurer of State for the benefit of the Arkansas Citizens First Responder Safety Enhancement Fund; and

(2) Twenty percent (20%) shall be retained by the court that tries the offense.

(d) If an operator of a motor vehicle is unable to prove that the liability coverage required by §§ 27-22-101 — 27-22-104 was in effect at the time of the traffic stop, the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished as provided under § 27-22-103.

**History.** Acts 2011, No. 1046, § 3.

## CHAPTER 23

### COMMERCIAL DRIVER LICENSE

**SUBCHAPTER.**

1. ARKANSAS UNIFORM COMMERCIAL DRIVER LICENSE ACT.
2. COMMERCIAL DRIVER ALCOHOL AND DRUG TESTING ACT.

#### SUBCHAPTER 1 — ARKANSAS UNIFORM COMMERCIAL DRIVER LICENSE ACT

**SECTION.**

- 27-23-103. Definitions.
- 27-23-106. Employer responsibilities.
- 27-23-110. Application for commercial driver license.
- 27-23-111. Content of Commercial Driver License — Classifications — Expiration and renewal.
- 27-23-112. Disqualification and cancellation.
- 27-23-113. Commercial drivers prohibited from operating with any alcohol in system.

**SECTION.**

- 27-23-128. Deferment of sentence — Restrictions.
- 27-23-129. Medical certification required — Downgrade of license for noncompliance — Denial or disqualification of license for fraud.
- 27-23-130. Prohibition against texting.

#### **27-23-103. Definitions.**

As used in this subchapter:

(1) “Alcohol” or “alcoholic beverage” means:

- (A) Ethyl alcohol, or ethanol;
- (B) Beer which is defined as beer, ale, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefore;
- (C) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(D) Distilled spirits, alcoholic spirits, and spirits, which are defined as those substances known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced;

(2) “Blood alcohol concentration” means:

- (A) The number of grams of alcohol per one hundred milliliters (100 ml) of blood;
- (B) The number of grams of alcohol per two hundred ten liters (210 l) of breath; or

(C) Blood and breath quantitative measures in accordance with the current Arkansas Regulations for Blood Alcohol Testing promulgated by the Department of Health;

(3) “Commerce” means:

(A) Trade, traffic, and transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside the United States; and

(B) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside the United States;

(4) "Commercial driver instruction permit" means a permit issued pursuant to § 27-23-108(d);

(5) "Commercial driver license" means a license issued in accordance with the requirements of this subchapter to an individual which authorizes the individual to drive a class of commercial motor vehicle;

(6) The "Commercial Driver License Information System" is the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(7) "Commercial driver license record" means the electronic record of an individual commercial driver license holder's driver status and history stored by the Office of Driver Services as part of the Commercial Driver's License Information System established under 49 U.S.C. § 31309, as in effect on January 1, 2011;

(8)(A) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(i) Has a gross combination weight rating of twenty-six thousand one pounds (26,001 lbs.) or more inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.);

(ii) Has a gross vehicle weight rating of twenty-six thousand one pounds (26,001 lbs.) or more;

(iii) Is designed to transport sixteen (16) or more passengers, including the driver; or

(iv) Is of any size and is used in the transportation of materials found to be hazardous, as a result of which the motor vehicle is required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F.

(B) When out-of-service orders are involved, the term "commercial motor vehicle" shall also include any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

(i) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one (10,001) or more pounds; or

(ii) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act, 49 U.S.C. App. §§ 1801-1813;

(9) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I-VI of the Uniform Controlled Substances Act, § 5-64-101 et seq.;



(10) "Conviction" or "convicted" means an unvacated adjudication of guilt, a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine, court cost, or court order, or violation of a condition of release without bail, regardless of whether or not the penalty was rebated, suspended, or prorated;

(11) "Downgrade" means the removal of commercial driver license privileges from a commercial driver license by the office;

(12) "Disqualification" means any of the following three (3) actions:

(A) The suspension, revocation, or cancellation of a commercial driver license by the Office of Driver Services or jurisdiction of issuance;

(B) A withdrawal of a person's privileges to drive a commercial motor vehicle by the office or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control except for parking, vehicle weight, or vehicle defect violations; or

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle;

(13) "Drive" means to drive, operate, or be in physical control of a commercial motor vehicle on any public street or highway in the state or in any place open to the general public for purposes of vehicular traffic;

(14) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle on any public street or highway in the state or in any place open to the general public for purposes of vehicular traffic;

(15) "Driver applicant" or "applicant" means any person who has applied for a commercial driver license;

(16) "Driver license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle;

(17) "Driving a commercial motor vehicle while under the influence of alcohol" means committing any one (1) or more of the following acts in a commercial motor vehicle:

(A) Driving a commercial motor vehicle while the person's blood alcohol concentration is four-hundredths of one percent (0.04%) or more;

(B) Driving while intoxicated in violation of § 5-65-103; or

(C) Refusal to undergo such testing as is required by § 5-65-202;

(18) "Electronic device" means a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text;

(19) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;

(20) "Excepted interstate" means a driver or applicant who operates or expects to operate a commercial motor vehicle in interstate commerce but engages exclusively in transportation or operations excepted under 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as in effect on January 1, 2011, from all or part of the qualification requirements of 49 C.F.R. part 391, as in effect on January 1, 2011, and is therefore not required to obtain a medical examiner's certificate by 49 C.F.R. § 391.45, as in effect on January 1, 2011;

(21) "Excepted intrastate" means a driver or applicant who operates or expects to operate a commercial motor vehicle exclusively in intrastate commerce but engages exclusively in transportation or operations excepted under 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as in effect on January 1, 2011, from all or part of the qualification requirements of 49 C.F.R. part 391, and is therefore not required to obtain a medical examiner's certificate by 49 C.F.R. § 391.45, as in effect on January 1, 2011;

(22) "Fatality" means the death of a person as a result of a motor vehicle accident;

(23) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year;

(24) "Foreign jurisdiction" means any jurisdiction other than a state of the United States;

(25) "Gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, the gross combination weight rating will be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(26) "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

(27) "Hazardous materials" means:

(A) Any material that:

(i) Has been designated as hazardous under 49 U.S.C. § 5103, as in effect on January 1, 2009, and

(ii) Is required to be placarded under 49 C.F.R. part 172, subpart F, as in effect on January 1, 2009; or

(B) Any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as in effect on January 1, 2009;

(28) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment;

(29)(A) "Medical examiner" means a person who is licensed, certified, or registered under applicable state laws and regulations to perform physical examinations.

(B) "Medical examiner" includes without limitation a doctor of medicine, a doctor of osteopathy, a physician's assistant, an advanced practice nurse, and a doctor of chiropractic;

(30) "Medical variance" means the receipt by a driver of one (1) of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

(A) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. part 381, subpart C, as in effect on January 1, 2011, or 49 C.F.R. § 391.64, as in effect on January 1, 2011; and

(B) A skill performance evaluation certificate permitting operation of a commercial motor vehicle under 49 C.F.R. § 391.49, as in effect on January 1, 2011;

(31) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that the term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail;

(32) "Nonexcepted interstate" means a driver or applicant who:

(A) Operates or expects to operate a commercial motor vehicle in interstate commerce;

(B) Is subject to and meets the qualification requirements under 49 C.F.R. part 391, as in effect on January 1, 2011; and

(C) Is required to obtain a medical examiner's certificate by 49 C.F.R. § 391.45, as in effect on January 1, 2011;

(33) "Nonexcepted intrastate" means a driver or applicant who operates or expects to operate a commercial motor vehicle exclusively in intrastate commerce but does not engage exclusively in transportation or operations as provided in 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as in effect on January 1, 2011, and is therefore required to obtain a medical examiner's certificate;

(34) "Nonresident commercial driver license" means a commercial driver license issued by a state to an individual domiciled in another state meeting the requirements of 49 C.F.R. § 383.23(b)(2);

(35) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver or motor carrier is temporarily prohibited from operating a commercial motor vehicle pursuant to § 27-23-113 or compatible laws, or that a commercial motor vehicle may not be operated;

(36) "School bus" means:

(A) A commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events; and

(B) "School bus" does not include a bus used as a common carrier;

(37) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

(A) Excessive speeding, involving a single offense for a speed of fifteen miles per hour (15 m.p.h.) or more above the posted speed limit;



(B) Reckless driving as defined by state or local law or regulation, including without limitation offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(C) Improper or erratic traffic lane changes;

(D) Following the vehicle ahead too closely;

(E)(i) A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation.

(ii) Serious traffic violations shall not include weight or defect violations;

(F) Driving a commercial motor vehicle without obtaining a commercial driver license;

(G)(i) Driving a commercial motor vehicle without a commercial driver license in the driver's possession.

(ii) An individual who by the date the individual must appear in court or pay any fine for a violation under this subdivision (37)(G) provides proof to the enforcement authority that issued the citation that the individual held a valid commercial driver license on the date the citation was issued shall not be guilty of this offense;

(H) Driving a commercial vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported; or

(I) Driving while texting;

(38) "State" means a state of the United States and also means the District of Columbia;

(39) "Tank vehicle" means any commercial motor vehicle equipped with a tank designed to hold liquid or gaseous materials with a capacity of one thousand gallons (1,000 gals.) or more; and

(40) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device.

(A) "Texting" includes without limitation using a short message service, e-mailing, instant messaging, entering a command or request to access an Internet page, or engaging in any other form of electronic text entry for present or future communication.

(B) "Texting" does not include:

(i) Reading, selecting, or entering a telephone number, an extension number, or a voicemail retrieval code or command into an electronic device for the purpose of initiating or receiving a phone call or using a voice command to initiate or receive a telephone call;

(ii) Inputting, selecting, or reading information on a global positioning system or navigation system; or

(iii) Using a device capable of performing multiple functions, including without limitation a fleet management system, a dispatching device, a smart phone, a citizens band radio, and a music player, for a purpose that is not otherwise prohibited in 49 C.F.R. parts 383 or 392, as in effect on January 1, 2011.

(41) “United States” means the fifty (50) states and the District of Columbia.

**History.** Acts 1989, No. 241, § 3; 1991, No. 643, § 1; 1995, No. 921, §§ 1, 2; 1997, No. 892, §§ 1-3; 2003, No. 842, § 1; 2005, No. 879, § 2; 2007, No. 382, § 1; 2009, No. 456, §§ 5, 6; 2011, No. 352, §§ 1, 2.

**Amendments.** The 2009 amendment inserted “or convicted” and “court cost” in (9); rewrote (22); and made related changes.

The 2011 amendment substituted “fifteen miles per hour (15 m.p.h.)” for “fifteen (15) miles per hour” in (28)(A); substituted “without limitation” for “but not limited to” in (28)(B); inserted “under this subdivision (28)(G)” in (28)(G)(ii); and added (28)(I) and (32) through (41), then realphabetized accordingly.

## 27-23-106. Employer responsibilities.

(a) Each employer must require the applicant to provide the information specified in § 27-23-105(c).

(b) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has a driver license suspended, revoked, or cancelled by a state; has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle;

(2) In which the driver has more than one (1) driver license; or

(3) In which the employee, the motor carrier, the driver, or the vehicle operated by the employee or driver is subject to an out-of-service order.

(c)(1) Any employer who once violates the provisions of subdivision (b)(1) or (2) of this section shall, upon conviction, be fined a sum of five hundred dollars (\$500), and each day’s violation and each driver’s violation shall constitute a separate offense and shall be punished as such. Any employer who violates the provisions of subdivision (b)(1) or (2) of this section a second or subsequent time shall, upon conviction, be fined a sum of one thousand dollars (\$1,000), and each day’s violation and each driver’s violation shall constitute a separate offense and shall be punished as such.

(2) An employer convicted of a violation of subdivision (b)(3) of this section is subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) but not more than twenty-five thousand dollars (\$25,000).

(3) An employer who knowingly allows, requires, permits, or authorizes a driver to operate a commercial motor vehicle in violation of federal, state, or local law or regulation pertaining to one (1) or more of the offenses listed in § 27-23-112(d) at a railroad-highway grade crossing is subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) but not more than ten thousand dollars (\$10,000).

**History.** Acts 1989, No. 241, § 6; 1995, No. 921, § 3; 2005, No. 879, § 1; 2009, No. 456, § 7.

**Amendments.** The 2009 amendment substituted “but not more than twenty-five thousand dollars (\$25,000)” for “nor

more than eleven thousand dollars (\$11,000)" in (c)(2); substituted "a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) but not more than ten thousand dollars (\$10,000)" for "the civil penalties of subdivision (e)(2) of this section in addition to the disqualification provisions of § 27-23-112(e)" in (c)(3); and made minor stylistic changes.

## **27-23-108. Commercial driver license qualification standards.**

### **CASE NOTES**

#### **Transfer Properly Disqualified.**

When a driver applied to transfer his commercial driver's license to the state, it was properly disqualified pursuant to subsection (c) of this section by a state agency as it discovered he had a DWI conviction in another state, and no prior action had been taken under the federal regulations.

Thus, it was required under 49 C.F.R. § 384.206 to implement the disqualification. *Burdine v. Ark. Dep't of Fin. & Admin.*, 2010 Ark. 455, — S.W.3d — (2010), cert. denied, *Burdine v. Weiss*, — U.S. —, — S. Ct. —, — L. Ed. 2d —, 2011 U.S. LEXIS 4608 (U.S. June 20, 2011).

## **27-23-110. Application for commercial driver license.**

(a)(1) The application for a commercial driver license or commercial driver instruction permit must include the following:

- (A) The full name and current residential address of the applicant;
- (B) A physical description of the applicant, including the applicant's sex, height, weight, eye color, and hair color;
- (C) The applicant's date of birth;
- (D) The applicant's social security number;
- (E) The applicant's signature;
- (F) A consent to release driving record information;
- (G) Certifications including those required by 49 C.F.R. § 383.71(a), as in effect on January 1, 2011;

(H) Certification that the applicant is not subject to any disqualification under 49 C.F.R. § 383.51, as in effect on January 1, 2011, or any license suspension, revocation, or cancellation under state law and that the applicant does not have a driver license from more than one (1) state or jurisdiction;

(I) Beginning on and after January 30, 2012, certification that the applicant is or expects to be one (1) of the following types of drivers:

- (i) Nonexcepted interstate;
- (ii) Excepted interstate;
- (iii) Nonexcepted intrastate; or
- (iv) Excepted intrastate;

(J) The surrender of the applicant's noncommercial driver licenses to the state;

(K) The names of all states in which the applicant has previously been licensed to drive any type of motor vehicle during the previous ten (10) years; and

(L) Any other information required by the Office of Driver Services.

(2) The application shall be accompanied by an application fee of forty-one dollars (\$41.00).



(b) When a licensee changes his or her name or residential address, an application for a duplicate license must be made to the office.

(c) No person who has been a resident of this state for thirty (30) days may drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

(d) The license application must be accompanied by an examination fee for each knowledge and skills test, which shall be set by regulation of the Department of Arkansas State Police in an amount not to exceed fifty dollars (\$50.00) for each examination and administration.

(e) The examination fee set in subsection (d) of this section shall be collected by the Revenue Division of the Department of Finance and Administration at the time of initial application for a commercial motor vehicle license and any subsequent applications for examination. The funds shall then be deposited as special revenues into the State Treasury and distributed to the credit of the Department of Arkansas State Police Fund to defray the cost of administering the examination of the knowledge and skills tests required in § 27-23-108.

**History.** Acts 1989, No. 241, § 10; 1989, (3rd Ex. Sess.), No. 36, § 1; 1991, No. 164, § 1; 1991, No. 852, § 1; 1991, No. 1042, § 1; 2003, No. 842, § 3; 2007, No. 256, § 1; 2007, No. 382, § 3; 2011, No. 352, § 3.

**Amendments.** The 2011 amendment redesignated former (a) as (a)(1) and former (a)(1) through (a)(7) as (a)(1)(A) through (G); substituted “applicant” for

“person” in (a)(1)(A) and (B); inserted “27-23-110” in (a)(1)(B); substituted “The applicant’s” for “Date” in (a)(1)(C); substituted “applicant’s” for “person’s” in (a)(1)(E); added “as in effect on January 1, 2011” at the end of (a)(1)(F); redesignated former (a)(8) as (a)(1)(H); inserted “as in effect on January 1, 2011” in (a)(1)(H); inserted (a)(1)(I); and redesignated former (a)(9) through (11) as (a)(1)(J) through (L).

## **27-23-111. Content of Commercial Driver License — Classifications — Expiration and renewal.**

(a) **CONTENT OF LICENSE.** The commercial driver license must be marked “Commercial Driver License” or “CDL”, and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

- (1) The name and residential address of the person;
- (2) The person’s color photograph;
- (3) A physical description of the person, including sex and height;
- (4) Date of birth;
- (5) A license number which shall be a nine-digit number assigned to the person by the Commissioner of Motor Vehicles;
- (6) The person’s signature;
- (7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
- (8) The name of this state; and
- (9) The dates between which the license is valid.

(b) **CLASSIFICATIONS, ENDORSEMENTS, AND RESTRICTIONS.** Commercial driver licenses may be issued with the following Class A, Class B, or Class C classifications, as well as the following endorsements and

restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license; all other driver licenses may be issued with the following Class D, Class M, or Class MD classifications;

(1) COMMERCIAL CLASSIFICATION.

Class A. Any combination of vehicles with a gross vehicle weight rating (GVWR) of twenty-six thousand one pounds (26,001 lbs.) or more, provided that the GVWR of the vehicle(s) being towed is in excess of ten thousand pounds (10,000 lbs.). No Class A license shall be issued to any person under the age of eighteen (18) years.

Class B. Any single vehicle with a GVWR of twenty-six thousand one pounds (26,001 lbs.) or more, and any such vehicle towing a vehicle not in excess of ten thousand pounds (10,000 lbs.). No Class B license shall be issued to any person under the age of eighteen (18) years.

Class C. Any single vehicle with a GVWR of less than twenty-six thousand one pounds (26,001 lbs.) or any such vehicle towing a vehicle with a GVWR not in excess of ten thousand pounds (10,000 lbs.) comprising:

(A) Vehicles designed to transport sixteen (16) or more passengers, including the driver; and

(B) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under the Hazardous Materials Regulations, 49 C.F.R., part 172, subpart F. No Class C license shall be issued to any person under the age of eighteen (18) years.

(2) OTHER CLASSIFICATIONS.

Class D. Any vehicle which is not a commercial vehicle, as defined by this chapter. No Class D license shall be issued to persons under the age of fourteen (14) years; provided, however, that no such licensee under the age of sixteen (16) years shall operate a vehicle unless accompanied in the front passenger seat of the vehicle by a licensed driver with at least one (1) year of driving experience.

No Class D license shall be valid to carry passengers for hire without a "P" endorsement. No "P" endorsement shall be issued to any person under the age of eighteen (18) years.

Notwithstanding the provisions of this or any other section of this subchapter, any person who on the effective date of this subchapter, has a valid operator's, chauffeur's, or for-hire chauffeur's license shall be entitled to drive the vehicles authorized thereby until the date of expiration of such license, but not thereafter; provided, however, that any person driving a commercial motor vehicle as defined by this chapter on or after April 1, 1992, must first obtain a commercial driver license as required by this section.

Class M. That license valid for the operation of any motorcycle which displaces more than two hundred fifty cubic centimeters (250

cc). No such license shall be issued to any person under the age of sixteen (16) years.

Class MD. That license valid for the operation of any motor driven cycle which displaces two hundred fifty cubic centimeters (250 cc) or less. No such license shall be issued to any person under the age of fourteen (14) years. A Class MD license shall automatically expire upon the licensee's sixteenth (16th) birthday.

(3) Endorsements and restrictions are:

"H" — authorizes the driver to drive a vehicle transporting hazardous materials;

"K" — restricts the driver to vehicles not equipped with airbrakes;

"T" — authorizes driving double and triple trailers;

"P" — authorizes driving vehicles carrying passengers or carrying passengers for hire;

"N" — authorizes driving tank vehicles;

"X" — represents a combination of hazardous materials and tank vehicle endorsements;

"M" — authorizes the driver to drive a motorcycle;

"S" — authorizes the driver to operate a school bus; and

"V" — indicates there is information about a medical variance on the commercial driver license record for commercial driver licenses issued on or after January 30, 2012, if the Office of Driver Services is notified according to 49 C.F.R. § 383.73(j)(3), as in effect on January 1, 2011, that the driver has been issued a medical variance.

(c)(1) APPLICANT RECORD CHECK. Before issuing a commercial driver license, the Office of Driver Services must obtain driving record information through the Commercial Driver License Information System, the National Driver Register, and from each state in which the person has been licensed.

(2)(A)(i) CRIMINAL BACKGROUND CHECK. After January 30, 2005, before issuing a commercial driver license with a hazardous materials or "H" endorsement, the office shall obtain from the Transportation Security Administration a criminal background check and evaluation which establish that the driver is not a security risk.

(ii) After May 31, 2005, before renewing or accepting a transferred commercial driver license with a hazardous materials or "H" endorsement, the office shall obtain from the administration a criminal background check and evaluation which establish that the driver is not a security risk.

(B)(i) If the office denies issuance of a commercial driver license with a hazardous materials or "H" endorsement based on the criminal background check and evaluation performed by the administration, any person disqualified from transporting hazardous material who wishes to appeal that finding shall file an appeal to the administration under the rules, regulations, and guidelines of that agency.

(ii) The appeal process provided under federal law shall be the sole avenue to appeal the denial of the issuance of a commercial driver



license under this section based upon the finding of the administration.

(d) **NOTIFICATION OF LICENSE ISSUANCE.** Within ten (10) days after issuing a commercial driver license, the office must notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(e) **EXPIRATION OF LICENSE.** All driver licenses issued upon and after January 1, 1990, shall be issued for a period of four (4) years from the date of issuance.

(f) **AUTHORITY TO ADJUST ALL DRIVER LICENSE EXPIRATION PERIODS.** The office, for whatever period of time is necessary, shall have the authority to promulgate rules and regulations to extend or shorten the term of any driver license period, as necessary, to ensure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year. All driver licenses subject to change for the purpose of this chapter shall also be subject to adjustment of the license fee to ensure the proper license fee is assessed as set forth in this chapter and such change shall be carried out in a manner determined by the office.

(g) **LICENSE RENEWAL PROCEDURES.** When applying for renewal of a commercial driver license, the applicant must complete the application form required by § 27-23-110(a) providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

**History.** Acts 1989, No. 241, § 11; 1989 (3rd Ex. Sess.), No. 36, § 2; 1991, No. 164, § 2; 1991, No. 852, § 2; 1993, No. 445, § 38; 2003, No. 836, § 3; 2003, No. 842, § 4; 2005, No. 136, § 1; 2007, No. 256, § 2; 2011, No. 352, § 4.

**Amendments.** The 2011 amendment added “V — indicates there is ... issued a medical variance” at the end of (b)(3).

## **27-23-112. Disqualification and cancellation.**

(a)(1) A driver or holder of a commercial driver license who is disqualified shall not drive a commercial motor vehicle.

(2) An employer shall not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a commercial motor vehicle.

(3) A driver is subject to disqualification sanctions designated in subsections (b) and (c) of this section if the holder of a commercial driver license drives a commercial motor vehicle or noncommercial motor vehicle and is convicted of violations.

(4) Determining first and subsequent violations. For purposes of determining first and subsequent violations of the offenses specified in this section, each conviction for any offense listed in this section resulting from a separate incident, whether committed in a commercial motor vehicle or noncommercial motor vehicle, must be counted.

(5)(A) The Office of Driver Services may reinstate any driver disqualified for life for offenses described in subdivisions (b)(1)-(7) of this

section after ten (10) years if that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the Department of Health.

(B) Any person who has been reinstated in accordance with this provision and who is subsequently convicted of a disqualifying offense described in subdivisions (b)(1)-(7) of this section shall not be reinstated.

(6) Notwithstanding any other provision of law, an Arkansas court shall not grant a restricted driving permit to operate a commercial motor vehicle.

(b) Disqualification for major offenses. Depending upon the type of vehicle a driver is operating at the time of the violation, a driver shall be disqualified as follows:

(1) If a driver operates a motor vehicle and is convicted of being intoxicated by drugs or alcohol as provided by § 5-65-103 or refusing to submit to chemical testing as provided by § 5-65-202, the driver shall be disqualified as follows:

(A) For a first conviction or refusal to be tested while operating a commercial motor vehicle, a person required to have a commercial driver license or a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction or refusal to be tested while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(C) For a first conviction or refusal to be tested while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years;

(D) For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life; and

(E) For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this section while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life;

(2) If a driver operates a motor vehicle and is convicted of having a blood alcohol concentration in violation of § 27-23-114(a), the driver shall be disqualified as follows:

(A) For a first conviction or refusal to be tested while operating a commercial motor vehicle a person required to have a commercial driver license and a commercial driver license holder shall be

disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction or refusal to be tested while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years; and

(C) For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life; and

(3) If a driver operates a motor vehicle and is convicted of leaving the scene of an accident, the driver shall be disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(C) For a first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years;

(D) For a second conviction in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life; and

(E) For a second conviction in a separate incident of any combination of offenses in this section while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life;

(4) If a driver operates a motor vehicle and is convicted of using the vehicle to commit a felony other than one described in subdivision (b)(7) of this section, the driver shall be disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;



(C) For a first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years;

(D) For a second conviction in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life; and

(E) For a second conviction in a separate incident of any combination of offenses in this section while operating a noncommercial motor vehicle, a commercial driver license holder must be disqualified from operating a commercial motor vehicle for life;

(5) If a driver operates a motor vehicle and is convicted of driving a commercial motor vehicle when the driver's commercial driver license is revoked, suspended, or canceled or if the driver is disqualified from operating a commercial motor vehicle as a result of prior violations committed while operating a commercial motor vehicle, the driver shall be disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years; and

(C) For a second conviction in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life;

(6) If a driver operates a motor vehicle and is convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of murder, manslaughter, and negligent homicide, the driver shall be disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one (1) year;

(B) For a first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, a person required to have a commercial driver license and

a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for three (3) years; and

(C) For a second conviction in a separate incident of any combination of offenses in this section while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life; and

(7) If a driver operates a motor vehicle and is convicted of using the vehicle in the commission of a felony involving delivering, manufacturing, or trafficking a controlled substance in violation of §§ 5-64-419 — 5-64-442 or the former § 5-64-401, the driver shall be disqualified as follows:

(A) For a conviction while operating a commercial motor vehicle a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life and shall not be eligible for reinstatement after ten (10) years; and

(B) For a conviction while operating a noncommercial motor vehicle, a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for life and shall not be eligible for reinstatement after ten (10) years.

(c) Disqualification for serious traffic violations, the offenses, and the periods for which a driver must be disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, shall be as follows:

(1) For a second conviction of any combination of serious traffic violations in a separate incident within a three-year period while operating a commercial motor vehicle or a suspension, revocation, or cancellation resulting from a conviction while operating a noncommercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for sixty (60) days; and

(2) For a third or subsequent conviction of any combination of serious traffic violations in a separate incident within a three-year period while operating a commercial motor vehicle or a conviction that results in suspension, revocation, or cancellation resulting from operating a noncommercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder shall be disqualified from operating a commercial motor vehicle for one hundred twenty (120) days;

(d) A driver shall be disqualified if the driver is convicted of operating a commercial motor vehicle in violation of federal, state, or local law or regulation because of the following railroad crossing violations:

(1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(2) For drivers who are not required to always stop, failing to stop before reaching the crossing if the tracks are not clear;

(3) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(4) For all drivers failing to have sufficient space to drive completely through the crossing without stopping;

(5) For all drivers failing to obey a traffic control device or the directions of the enforcement official at the crossing; and

(6) For all drivers failing to negotiate a crossing because of insufficient undercarriage clearance.

(e) A driver convicted of an offense listed in subsection (d) of this section is disqualified:

(1) For at least sixty (60) calendar days for a first conviction;

(2) For at least one hundred twenty (120) calendar days for a second conviction within a three-year period; and

(3) For at least one (1) year for a third or subsequent conviction within a three-year period.

(f) A driver who violates an out-of-service order is disqualified as follows:

(1) If the driver operates a commercial motor vehicle and is convicted of violating a driver or vehicle out-of-service order while transporting nonhazardous materials, the driver is disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder is disqualified from operating a commercial motor vehicle for at least one hundred eighty (180) days but not more than one (1) year;

(B) For a second conviction in a separate incident within a ten-year period while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder is disqualified from operating a commercial motor vehicle for at least two (2) years but not more than five (5) years; and

(C) For a third or subsequent conviction in a separate incident within a ten-year period while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder is disqualified from operating a commercial motor vehicle for at least three (3) years but not more than five (5) years; and

(2) If the driver operates a commercial motor vehicle and is convicted of violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, or while operating a vehicle designed to transport sixteen (16) or more passengers, including the driver, the driver is disqualified as follows:

(A) For a first conviction while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder is disqualified from operating a commercial motor vehicle for at least one hundred eighty (180) days but not more than two (2) years;

(B) For a second conviction in a separate incident within a ten-year period while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license



holder is disqualified from operating a commercial motor vehicle for at least three (3) years but not more than five (5) years; and

(C) For a third or subsequent conviction in a separate incident within a ten-year period while operating a commercial motor vehicle, a person required to have a commercial driver license and a commercial driver license holder is disqualified from operating a commercial motor vehicle for at least three (3) years but not more than five (5) years.

(g) Any driver disqualified by the Federal Motor Carriers Safety Administration under 49 C.F.R. § 383.52 shall be disqualified by the office. The disqualification shall be concurrent with the disqualification ordered by the Federal Motor Carriers Safety Administration and shall be entered as part of the driver's record.

(h) Convictions, disqualifications, and other licensing action for violations as provided in this section shall be noted and retained by the office on a person's commercial driver's license record for the periods of time required under 49 C.F.R. § 384.225(d) and 49 C.F.R. § 384.231(d), as in effect on January 1, 2007.

(i) The commercial driver's license record released by the office to the employer or prospective employer of a commercial driver pursuant to 49 C.F.R. § 384.225(c) and (e)(4), as in effect on January 1, 2007, shall be a complete record that includes any convictions, disqualifications, and other licensing actions for violations required to be retained on a commercial driver's license record under 49 C.F.R. § 384.225(d) and 49 C.F.R. § 384.231(d), as in effect on January 1, 2007.

**History.** Acts 1989, No. 241, § 12; 1993, No. 1257, § 6; 1995, No. 921, § 4; 1999, No. 1077, §§ 3, 4; 2001, No. 216, § 1; 2003, No. 842, § 5; 2007, No. 370, § 1; 2009, No. 456, §§ 8, 9; 2011, No. 352, §§ 5, 6; 2011, No. 570, § 128.

**A.C.R.C. Notes.** Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs."

**Amendments.** The 2009 amendment rewrote (e); and in (f), substituted "one

hundred eighty (180)" for "ninety (90)" in (f)(1)(A), substituted "two (2) years" for "one (1) year" in (f)(1)(B), and made minor stylistic changes.

The 2011 amendment by No. 352 inserted (a)(6); and substituted "serious traffic violations" for "offenses listed in § 27-23-103(28) as serious traffic offenses" in (c)(1) and (2).

The 2011 amendment by No. 570, in (b)(7), inserted "delivering," substituted "or trafficking" for "distributing, or dispensing," and inserted "§§ 5-64-419 — 5-64-442 or the former."

## **27-23-113. Commercial drivers prohibited from operating with any alcohol in system.**

(a) No person shall:

(1) Consume an intoxicating beverage, regardless of its alcoholic content, or be under the influence of an intoxicating beverage, within four (4) hours before going on duty or operating, or having physical control of, a commercial motor vehicle;

(2) Consume an intoxicating beverage regardless of its alcohol content, be under the influence of an intoxicating beverage, or have any

measured alcohol concentration or any detected presence of alcohol, while on duty, or operating, or in physical control of a commercial motor vehicle; or

(3) Be on duty or operate a commercial motor vehicle while the driver possesses an intoxicating beverage, regardless of its alcohol content. However, this subdivision (a)(3) does not apply to possession of an intoxicating beverage which is manifested and transported as part of a shipment.

(b) Any driver who is found to be in violation of the provisions of subsection (a) of this section shall be placed out-of-service immediately for a period of twenty-four (24) hours.

(1) The twenty-four-hour out-of-service period will commence upon issuance of an out-of-service order.

(2) No driver shall violate the terms of an out-of-service order issued under this section.

(c) A driver convicted of violating an out-of-service order is subject to disqualification under § 27-23-112, in addition to a civil penalty of:

(1) Not less than two thousand five hundred dollars (\$2,500) for a first conviction; and

(2) Not less than five thousand dollars (\$5,000) for a second or subsequent conviction.

**History.** Acts 1989, No. 241, § 13; 2003, No. 842, § 6; 2009, No. 456, § 10. **Amendments.** The 2009 amendment rewrote (c).

### **27-23-128. Deferment of sentence — Restrictions.**

No circuit or district court judge may utilize § 5-4-321, § 16-90-115, §§ 16-93-301 — 16-93-303, § 16-93-314, or § 27-50-701 or any other program to defer imposition of sentence in instances in which the defendant holds a commercial driver license and is charged with violating any state or local traffic law other than a parking violation.

**History.** Acts 2003, No. 842, § 7; 2005, No. 1934, § 19; 2009, No. 456, § 11; 2011, No. 570, § 129. contain correction costs.”

**A.C.R.C. Notes.** Acts 2011, No. 570, § 1, provided: “Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and

**Amendments.** The 2009 amendment inserted “or § 27-50-701” and made minor stylistic changes.

The 2011 amendment deleted “§ 5-4-311” following “utilize” and inserted “§ 16-93-314.”

### **27-23-129. Medical certification required — Downgrade of license for noncompliance — Denial or disqualification of license for fraud.**

(a)(1) Beginning January 30, 2012, an applicant for a commercial driver license that certifies as nonexcepted interstate or nonexcepted intrastate shall provide to the Office of Driver Services an original or a copy of a medical examiner’s certificate prepared by a medical exam-

iner, as required by 49 C.F.R. part 391, subpart E, as in effect on January 1, 2011.

(2) Upon approval of the application, the office shall post a certification status of "certified" on the commercial driver license record for the driver.

(b) Beginning January 30, 2012, before issuing a commercial driver license to a person who certifies as nonexcepted interstate or nonexcepted intrastate and has a valid commercial driver license from another state, the office shall:

(1) Verify from the commercial driver license record that the medical certification status of the driver is "certified"; or

(2)(A) Obtain from the driver an original or a copy of a current medical examiner's certificate prepared by a medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect on January 1, 2011.

(B) Upon approval of the transfer, the office shall post a certification status of "certified" on the commercial driver license record for the driver.

(c)(1) Between January 30, 2012, and January 30, 2014, inclusive, a holder of a commercial driver license shall certify to the office that the driver is one of the following types of drivers:

(A) Nonexcepted interstate;

(B) Excepted interstate;

(C) Nonexcepted intrastate; or

(D) Excepted intrastate.

(2) The office shall post to the commercial driver license record the driver's certification.

(3) Between January 30, 2012, and January 30, 2014, inclusive, a holder of a commercial driver license that certifies as nonexcepted interstate or nonexcepted intrastate shall provide the office with an original or a copy of a current medical examiner's certificate prepared by a medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect on January 1, 2011, and the office shall post a certification status of "certified" on the commercial driver license record for the driver.

(d)(1) To maintain a medical certification status of "certified", a commercial driver license holder must provide the office with an unexpired original or a copy of each subsequently issued medical examiner's certificate.

(2) Beginning January 30, 2012, if a driver's medical certification or medical variance expires, or if the Federal Motor Carrier Safety Administration notifies the office that a medical variance was removed or rescinded, the office shall:

(A) Post a certification status of "not certified" in the commercial driver license record for the driver;

(B) Downgrade the commercial driver license of the driver effective in sixty (60) days; and

(C) Notify the driver in writing that:



- (i) The driver has a “not certified” medical-certification status; and
  - (ii) The commercial driver license privilege will be downgraded unless the driver submits a current medical certificate or medical variance.
- (3) Beginning January 30, 2014, if a holder of a commercial driver license fails to provide the office with the certification required under subsection (c) of this section, the office shall:
- (A) Post a certification status of “not certified” in the commercial driver license record for the driver;
  - (B) Downgrade the commercial driver license of the driver effective in sixty (60) days; and
  - (C) Notify the driver in writing that:
    - (i) The driver has a “not certified” medical certification status; and
    - (ii) The commercial driver license privilege will be downgraded unless the driver submits:
      - (a) The certification required by subsection (c) of this section; and
      - (b) A current medical certificate or medical variance, if applicable.
- (4) Beginning January 30, 2014, if a holder of a commercial driver license that certifies as non-excepted interstate or non-excepted intrastate fails to provide the office with a current medical examiner’s certificate, the office shall:
- (A) Post a certification status of “not certified” in the commercial driver license record for the driver;
  - (B) Downgrade the commercial driver license of the driver effective in sixty (60) days; and
  - (C) Notify the driver in writing that:
    - (i) The driver has a “not certified” medical certification status; and
    - (ii) The commercial driver license privilege will be downgraded unless the driver submits a current medical certificate or medical variance.
  - (e) For each current medical examiner certificate received from a driver, the office shall:
    - (1) Date-stamp the medical examiner’s certificate;
    - (2) Retain the original or a copy of the medical certificate of a driver for three (3) years beyond the date the certificate was issued; and
    - (3) Post the information from the medical examiner’s certificate within ten (10) calendar days to the commercial driver license record, including:
      - (A) The medical examiner’s name;
      - (B) The medical examiner’s telephone number;
      - (C) The date of the medical examiner’s certificate issuance;
      - (D) The medical examiner’s license number and the state of issuance;
      - (E) The medical examiner’s National Registry identification number if required by the National Registry of Certified Medical Examiners, mandated by 49 U.S.C. 31149(d), as in effect on January 1, 2011;
      - (F) An indicator of medical certification status, that is, “certified” or “not certified”;

(G) The expiration date of the medical examiner's certificate;

(H) The existence of any medical variance on the medical certificate, including without limitation an exemption, skill performance evaluation certification, or grandfather provision;

(I) Any restrictions, including without limitation corrective lenses, a hearing aid, or a requirement to have possession of an exemption letter or skill performance evaluation certificate while on duty; and

(J) The date the medical examiner's certificate information was posted to the commercial driver license record.

(f) Beginning January 30, 2012, the office, within ten (10) calendar days of a driver's medical certification status expiring or a driver's medical variance expiring or being rescinded, shall update the medical certification status of the driver as "not certified".

(g) Beginning January 30, 2012, the office, within ten (10) calendar days of receiving information from the administration regarding issuance or renewal of a medical variance for a driver, shall update the commercial driver license record to include the medical variance information provided by the administration.

(h)(1) If the office determines in its check of an applicant's license status and record before issuing a commercial driver license that the applicant falsified information or a document required by this section, the office shall:

(A) Deny the person's pending application for a commercial driver license; and

(B) Refuse to grant an application for a commercial driver license for a period of one (1) year.

(2) If the office determines at any time after a commercial driver license is issued that the driver falsified information or a document required by this section, the office shall disqualify the driver's commercial driver license for a period of one (1) year.

**History.** Acts 2011, No. 352, § 7.

### **27-23-130. Prohibition against texting.**

(a)(1) For purposes of this section only, "driving" means operating a commercial motor vehicle with the motor running, including while temporarily stationary because of traffic, a traffic control device, or another momentary delay.

(2) For purposes of this section only, "driving" does not include operating a commercial motor vehicle with or without the motor running when the driver moves the vehicle to the side of, or off, a highway, as defined in 49 C.F.R. § 390.5, as in effect on January 1, 2011, and halts in a location in which the vehicle can safely remain stationary.

(b)(1) A driver of a commercial motor vehicle shall not engage in texting while driving.

(2) However, texting while driving is permissible by a driver of a commercial motor vehicle when necessary to communicate with a law enforcement official or other emergency service.

(c) A motor carrier shall not allow or require the motor carrier's drivers to engage in texting while driving.

(d) A person who pleads guilty or nolo contendere to or is found guilty of violating this section commits a violation.

**History.** Acts 2011, No. 352, § 7.

## **SUBCHAPTER 2 — COMMERCIAL DRIVER ALCOHOL AND DRUG TESTING ACT**

### **SECTION.**

27-23-202. Definitions.

27-23-203. Applicability — Exemptions.

27-23-204. Testing.

### **SECTION.**

27-23-205. Reporting test results.

27-23-207. Use of database by employers.

27-23-209. Penalties.

### **27-23-202. Definitions.**

(a) As used in this subchapter:

(1)(A)(i) "Consortium/third-party administrator" means a service agent that provides or coordinates the provision of drug and alcohol testing services to employers that are required to comply with the drug and alcohol testing provisions under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009.

(ii) A consortium/third-party administrator performs tasks concerning the operation of an employer's drug and alcohol testing programs.

(B) "A consortium/third-party administrator" includes without limitation, groups of employers who join together to administer, as a single entity, the drug and alcohol testing programs of its members that are required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009.

(C) A consortium/third-party administrator is not an "employer" for purposes of this subchapter;

(2)(A) "Employee" means a person who is a holder of an Arkansas commercial driver license and is subject to drug and alcohol tests under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009.

(B) "Employee" includes an individual currently performing safety-sensitive transportation jobs and an applicant for employment in safety-sensitive transportation jobs subject to preemployment testing; and

(3)(A) "Employer" means an Arkansas person or entity employing one (1) or more employees subject to the drug and alcohol testing provisions under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009.

(B) "Employer" includes:



- (i) An individual who holds an Arkansas commercial driver license who is self-employed in a safety-sensitive transportation job for which drug and alcohol tests are required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009; and
  - (ii) An Arkansas employer's officer, representative, or management personnel.
- (b) Except as provided in this subchapter, the definition under 49 C.F.R. § 40.3, as in effect on January 1, 2009, applies to a term that is used in this subchapter if that term is defined under 49 C.F.R. § 40.3, as in effect on January 1, 2009.

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 12.

**Amendments.** The 2009 amendment rewrote the section, which read: "The definition under 49 C.F.R. § 40.3, as in effect

on January 1, 2007, applies to a term that is used in this subchapter if that term is defined under 49 C.F.R. § 40.3, as in effect on January 1, 2007."

### 27-23-203. Applicability — Exemptions.

- (a) This subchapter applies to:
- (1) An Arkansas employer who is required to comply with the drug and alcohol testing provisions under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009;
  - (2) An employee who holds an Arkansas commercial driver license and who either:
    - (A) Is employed by an Arkansas employer in a safety-sensitive transportation job for which drug and alcohol tests are required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009; or
    - (B) Has submitted an application for employment with an Arkansas employer for a safety-sensitive transportation job for which drug and alcohol tests are required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009; and
  - (3) A consortium/third-party administrator that provides or coordinates the provision of drug and alcohol testing services to Arkansas employers that are required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on January 1, 2009.
- (b) This subchapter does not apply to an individual who is exempt from holding a commercial driver license notwithstanding whether the individual holds a commercial driver license.

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 13.

**Amendments.** The 2009 amendment, in (a), substituted "2009" for "2007" in three places, inserted "49 C.F.R. pts. 350-399" in (a)(1) and (a)(2)(B), rewrote (a)(3), which read: "A medical review officer who

reviews laboratory test results generated by a drug test than an Arkansas employer is required to conduct under the Federal Motor Carrier Safety Regulation, as in effect on January 1, 2007," and made related changes.

**27-23-204. Testing.**

An Arkansas employer shall test an employee for alcohol and drugs if this subchapter applies to both the Arkansas employer and employee under § 27-23-203(a)(1) and (2).

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 14. inserted "Arkansas" twice and made minor stylistic changes.

**Amendments.** The 2009 amendment

**27-23-205. Reporting test results.**

(a) An Arkansas employer shall report to the Office of Driver Services within three (3) business days the results of an alcohol screening test that is performed on an employee who holds an Arkansas commercial driver license if:

(1) The alcohol screening test is performed pursuant to 49 C.F.R. § 382.303 or § 382.305, as in effect on January 1, 2009; and

(2) One (1) of the following occurs regarding the alcohol screening test:

(A) A valid positive result; or

(B) The refusal to provide a specimen for an alcohol screening test.

(b) An Arkansas employer shall report within three (3) business days to the office any of the following occurrences regarding a drug test result of an employee who holds an Arkansas commercial driver license:

(1) A valid positive result on a drug test for any of the following drugs:

(A) Marijuana metabolites;

(B) Cocaine metabolites;

(C) Amphetamines;

(D) Opiate metabolites; or

(E) Phencyclidine (PCP);

(2) The refusal to provide a specimen for a drug test; or

(3) The submission of an adulterated specimen, a dilute positive specimen, or a substituted specimen on a drug test performed.

(c) A consortium/third-party administrator shall report to the office within three (3) business days the results of an alcohol screening test that is performed on an Arkansas employer or employee who holds an Arkansas commercial driver license if:

(1) The alcohol screening test is performed pursuant to 49 C.F.R. § 382.303 or § 382.305, as in effect on January 1, 2009; and

(2) One (1) of the following occurs regarding the alcohol screening test:

(A) A valid positive result; or

(B) The refusal to provide a specimen for an alcohol screening test.

(d) A consortium/third-party administrator shall report within three (3) business days to the office any of the following occurrences regarding a drug test result of an Arkansas employer or employee who holds an Arkansas commercial driver license:

(1) A valid positive result on a drug test for any of the following drugs:

- (A) Marijuana metabolites;
- (B) Cocaine metabolites;
- (C) Amphetamines;
- (D) Opiate metabolites; or
- (E) Phencyclidine (PCP);

(2) The refusal to provide a specimen for a drug test; or

(3) The submission of an adulterated specimen, a dilute positive specimen, or a substituted specimen on a drug test performed.

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 15.

**Amendments.** The 2009 amendment inserted “an Arkansas” preceding “commercial driver license” in (a) and (b); sub-

stituted “2009” for “2007” in (a)(1); substituted “An Arkansas employer” for “A medical review officer” in (b); added (c) and (d); and made related changes.

### **27-23-207. Use of database by employers.**

(a) An Arkansas employer shall submit a request for information from the Commercial Driver Alcohol and Drug Testing Database for each employee who is subject to drug and alcohol testing under this subchapter.

(b) The request for information shall be submitted to the Office of Driver Services by the Arkansas employer with an authorization that is signed by the employee.

(c)(1)(A) The fee for the request for information is a nominal fee not to exceed one dollar (\$1.00) per employee per request.

(B) The office shall determine the amount of the fee.

(C) The office shall set the fee before implementation by rule.

(2) The fee shall be assessed to and paid by the Arkansas employer requesting the information.

(d) The Arkansas employer shall maintain a record of the report from the Commercial Driver Alcohol and Drug Testing Database that results from the request for information submitted under this section for at least three (3) years.

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 16.

inserted “Arkansas” in four places; and made a minor stylistic change.

**Amendments.** The 2009 amendment

### **27-23-209. Penalties.**

(a)(1) The penalty for an Arkansas employer who knowingly fails to check the Commercial Driver Alcohol and Drug Testing Database as required under this subchapter is one thousand dollars (\$1,000).

(2) The penalty described in subdivision (a)(1) of this section shall be assessed beginning July 1, 2008.

(b)(1) Except as provided under subdivision (b)(2) of this section, the penalty for an Arkansas employer who knowingly hires an employee



with a record of a positive alcohol or drug test in the Commercial Driver Alcohol and Drug Testing Database is five thousand dollars (\$5,000).

(2) This subsection does not apply to an employee who has completed a treatment program or an education program prescribed by a substance abuse professional and who has been found eligible to return to duty by the employer as provided under 49 C.F.R. §§ 40.281 — 40.313, as in effect on January 1, 2009.

(c) The penalty for an Arkansas employer who knowingly fails to report an occurrence regarding an alcohol or drug screening test as required under § 27-23-205(a) or § 27-23-205(b) is five hundred dollars (\$500).

(d)(1) The penalty for a consortium/third-party administrator who knowingly fails to report an occurrence regarding a drug or alcohol test result as required under § 27-23-205(c) or (d) is five hundred dollars (\$500).

(2) If the consortium/third-party administrator is out of state, the penalty under subdivision (d)(1) of this section shall be extended to the Arkansas employer that contracted with the consortium/third-party administrator.

(e) The penalties under this section do not apply to the State of Arkansas, an agency of the state, or a political subdivision of the state.

(f) Moneys collected under this section are special revenues and shall be deposited into the State Treasury to the credit of the State Highway and Transportation Department Fund.

**History.** Acts 2007, No. 637, § 1; 2009, No. 456, § 17.

**Amendments.** The 2009 amendment inserted “Arkansas” in four places; substituted “2009” for “2007” in (b)(2); inserted “or drug” and “or § 27-23-205(b)” in (c); in

(d), substituted “consortium/third-party administrator” for “medical review officer” in three places, and substituted “§ 27-23-205(c) or (d)” for “§ 27-23-205(b)” in (d)(1); and made minor stylistic changes.

## CHAPTER 24

### SPECIAL LICENSE PLATE ACT OF 2005

#### SUBCHAPTER.

2. MILITARY SERVICE AND VETERANS.
10. COLLEGES, UNIVERSITIES, AND ARKANSAS SCHOOL FOR THE DEAF.
13. PUBLIC AND MILITARY SERVICE RECOGNITION.
14. SPECIAL INTEREST LICENSE PLATES.
16. DEPARTMENT OF PARKS AND TOURISM.
17. CONSERVATION DISTRICTS.

#### SUBCHAPTER 2 — MILITARY SERVICE AND VETERANS

##### SECTION.

- 27-24-203. Definitions.
- 27-24-206. Fees and limitations.
- 27-24-209. Redesign and simplification of military service and veterans special license plates.

##### SECTION.

- 27-24-210. Retired members of the armed forces.
- 27-24-211. Gold Star Family special license plates.

**27-24-203. Definitions.**

As used in this chapter:

(1) "Aid and attendance" means veterans benefits paid to a veteran who because of physical disability cannot take care of himself or herself and must be assisted by another person;

(2) "Disabled veteran" means any American veteran who:

(A) Is a citizen and resident of the State of Arkansas;

(B) Has been determined by the United States Department of Veterans Affairs to be a totally and permanently disabled service-connected veteran; and

(C) Is either:

(i) The owner of a motor vehicle that is used by or for the totally and permanently disabled veteran; or

(ii) Issued a motor vehicle by the United States Department of Veterans Affairs under any public law;

(3) "Disabled veteran — nonservice injury" means any American veteran who:

(A) Is a citizen and resident of the State of Arkansas;

(B) Uses a wheelchair as a result of a nonservice-connected catastrophic injury;

(C) Receives aid and attendance by the United States Department of Veterans Affairs; and

(D) Is either:

(i) The owner of a motor vehicle that is used by or for the totally and permanently disabled veteran; or

(ii) Furnished a motor vehicle by the United States Department of Veterans Affairs;

(4) "Disabled veteran — World War I" means a World War I veteran who:

(A) Received a disabling injury while serving in the armed forces of the United States during World War I; and

(B) Is either:

(i) The owner of a motor vehicle that is used by or for the totally and permanently disabled veteran; or

(ii) Furnished a motor vehicle by the United States Department of Veterans Affairs;

(5)(A) "Merchant Marine" means a person who establishes that he or she:

(i) Served in the United States Merchant Marine during the period of October 1, 1940, through December 31, 1945; and

(ii) Is qualified to receive all applicable veterans benefits.

(B) A person shall establish that he or she was a Merchant Marine under this subchapter by presenting a copy of the certificate of release or Form DD 214 with his or her application; and

(6) "Retired member of the armed forces" means a person who presents proof of retirement in the form of retirement orders issued by one (1) of the following services of the armed forces of the United States:

- (A) The United States Army;
- (B) The United States Navy;
- (C) The United States Marine Corps;
- (D) The United States Air Force;
- (E) The United States Coast Guard;
- (F) The Army National Guard;
- (G) The Air National Guard; or
- (H) The Reserves Forces of the United States.

**History.** Acts 2005, No. 2202, § 1; 2009, No. 632, § 1.

**Amendments.** The 2009 amendment added (6), and made related changes.

### **27-24-206. Fees and limitations.**

(a)(1) Except as provided in subdivision (a)(2) of this section, special license plates created and issued under this subchapter shall be free of charge to an eligible applicant.

(2) To defray the cost of the issuance and renewal of special license plates under this subchapter, the Director of the Department of Finance and Administration may charge an annual fee for renewal not to exceed one dollar (\$1.00).

(b) Except as provided in subsection (c) of this section, a person who is eligible to receive a special license plate under this chapter shall be limited to one (1) special license plate under this subchapter.

(c) An eligible applicant for the issuance or renewal of any of the following special license plates may obtain one (1) additional special license plate under this subchapter upon payment of a fee not to exceed one dollar (\$1.00):

- (1) Ex-prisoner of War;
- (2) Pearl Harbor Survivor;
- (3) Medal of Honor Recipient;
- (4) Disabled Veteran;
- (5) Disabled Veteran — World War I; or
- (6) Purple Heart Recipient.

**History.** Acts 2005, No. 2202, § 1; 2007, No. 101, § 1; 2007, No. 148, § 1; 2007, No. 239, § 1; 2009, No. 483, § 3; 2009, No. 632, § 2.

**Amendments.** The 2009 amendment by No. 483 deleted (c)(1) and (c)(2), redesignated (c)(3) as (c), and made a minor

spelling correction in the introductory language of (c).

The 2009 amendment by No. 632, in (c), deleted (c)(1) and (c)(2), redesignated the remaining subdivisions accordingly, and made a minor stylistic change.

### **27-24-209. Redesign and simplification of military service and veterans special license plates.**

(a) The Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration shall redesign and simplify all military service and veterans special license plates issued under this subchapter that are in existence on September 1, 2009.



(b)(1) In place of the legend "The Natural State" at the bottom of the special license plate, a decal for a veteran of each conflict authorized under this subchapter shall be created.

(2) The design of the special license plate shall include a blank space that is sufficient for the branch decal under subsection (c) of this section or the medal decal under subsection (d) of this section.

(c)(1) The office shall design a branch decal based on the official emblem for each of the following:

- (A) The United States Army;
- (B) The Army Reserve;
- (C) The United States Navy;
- (D) The Navy Reserve;
- (E) The United States Marine Corps;
- (F) The Marine Corps Reserve;
- (G) The United States Air Force;
- (H) The Air Force Reserve;
- (I) The Coast Guard;
- (J) The Coast Guard Reserve;
- (K) The Army National Guard; and
- (L) The Air National Guard.

(2)(A) The office is to seek the advice and input of the Director of the Department of Veterans Affairs and the Adjutant General for the State of Arkansas on the design of the branch decal.

(B) The office shall comply with the provisions of 10 U.S.C. § 1057 and 10 U.S.C. § 7881.

(3) The branch decal shall be of a size to fit on the license plate next to the officially designated license plate number.

(4) The applicant shall establish that he or she served in the branch before the office issues the branch decal.

(5) If the applicant does not purchase a medal decal under subsection (d) of this section, an employee of the office shall affix the branch decal to the special license plate at the time of issuance to the applicant.

(6) There is no additional charge for a branch decal under this subsection.

(d)(1)(A) The office shall design and make available for issuance medal decals for no more than five (5) medals awarded by a branch of the armed services of the United States by January 1, 2010.

(B) Every two (2) years following the effective date of this act, the office shall design and make available for issuance no more than five (5) additional medal decals awarded by a branch of the armed services of the United States.

(2) The medal decal is to be designed based on the official medal that it represents.

(3) The office is to seek the advice and input of the director and the Adjutant General for the State of Arkansas on the design of the medal decal, which medal decals should be issued, and the timing of the issuance of the medal decals.

(4) The medal decal shall be of a size to fit on the license plate next to the officially designated license plate number.

(5) The applicant shall establish that he or she was awarded the medal before the office issues the medal decal.

(6) If an applicant purchases a medal decal under this subsection, an employee of the office shall affix the medal decal to the special license plate at the time of issuance to the applicant.

(7)(A) A fee of ten dollars (\$10.00) shall be charged for the medal decal under this subsection to be deposited to the credit of the Military Funeral Honors Fund, § 19-6-813.

(B) An additional handling and administrative fee of one dollar (\$1.00) shall be added to the cost of the medal decal under this subsection for administrative costs.

(8) The medal decal under this subsection is optional and if it is not purchased, the applicant will receive a branch decal as provided under subsection (c) of this section.

(e) An applicant for a redesigned special license plate under this section shall meet the requirements of this subchapter.

(f) Except as provided under subdivision (d)(7)(A) of this section, the fee for issuance and renewal of a redesigned special license plate under this section shall be as provided in § 27-24-206.

(g) Military service special license plates issued under this subchapter before the effective date of this act shall be valid and are not required to be exchanged until requested by the office.

(h) The office may use special license plates that were created and purchased under this subchapter before the effective date of this act.

**History.** Acts 2009, No. 784, § 1.

## **27-24-210. Retired members of the armed forces.**

(a) The Department of Finance and Administration shall continue the special license plate for retired members of the armed forces that existed before the effective date of this act.

(b)(1) The department shall design the special license plates issued under this section.

(2) In lieu of the legend "The Natural State" or any succeeding legend, there shall be placed across the bottom of the license plate a permanent decal bearing the words "U.S. Armed Forces Retired".

(c) A retired member of the armed forces may apply for and annually renew a special license plate issued under this section as provided under § 27-24-206 (a) and (b).

(d) Upon the initial application of a special license plate issued under this section, a retired member of the armed forces shall provide adequate proof to the department that he or she is a retired member of the armed forces.

(e) The registration of a special license plate under this section may continue from year to year as long as it is renewed each year within the time and in the manner required by law.

(f) The Office of Motor Vehicle shall redesign and simplify the special license plates issued under this section to bring them into conformity with § 27-24-209.

**History.** Acts 2009, No. 632, § 3; 2011, No. 632, § 1.

**Amendments.** The 2011 amendment added (f).

## **27-24-211. Gold Star Family special license plates.**

(a) The purpose of this section is to honor:

(1) The spouse of a member of the armed forces of the United States whose spouse has been killed in a conflict recognized by the United States Department of Defense; and

(2) The parent of a member of the armed forces of the United States whose child has been killed in a conflict recognized by the United States Department of Defense.

(b) The Department of Finance and Administration is authorized to issue one (1) Gold Star Family special license plate to an applicant who establishes upon initial application that he or she:

(1) Is the spouse or parent of a member of the armed forces of the United States who has been killed in a conflict recognized by the United States Department of Defense; and

(2) Has received a Gold Star Lapel Button issued by the United States Department of Defense under 10 U.S.C. § 1126.

(c) There is no cost for the issuance or renewal of the Gold Star Family special license plate under this section.

(d)(1) The Department of Finance and Administration shall design the special license plates issued under this section as provided under this subsection.

(2) The design of the Gold Star Family special license plate shall include a large gold star on the left-hand side of the plate and a decal at the bottom of the plate that states "Gold Star Family" in lieu of the legend "The Natural State" or any succeeding legend.

(e) A Gold Star Family special license plate is not transferable as provided under § 27-24-207.

(f) The registration of a special license plate under this section may continue from year to year so long as it is renewed each year within the time and manner required by law.

**History.** Acts 2009, No. 685, § 1.

## **SUBCHAPTER 10 — COLLEGES, UNIVERSITIES, AND ARKANSAS SCHOOL FOR THE DEAF**

### **SECTION.**

27-24-1001. Purpose.

27-24-1002. Definition.

27-24-1005. Issuance — Renewal — Re-  
placement.

### **SECTION.**

27-24-1010. Arkansas School for the  
Deaf.



**27-24-1001. Purpose.**

The purpose of this subchapter is to:

(1) Continue the special license plates for colleges and universities that existed before April 13, 2005, to support higher education in the state by providing additional funding for academic or need-based scholarships and to transfer the authority to the Department of Finance and Administration to issue additional college and university special license plates; and

(2) Authorize a special license plate for the Arkansas School for the Deaf, which is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools and has students up to twenty-one (21) years of age.

**History.** Acts 2005, No. 2202, § 1; subdivided part of the paragraph and 2011, No. 726, § 1. added (2).

**Amendments.** The 2011 amendment

**27-24-1002. Definition.**

As used in this subchapter, “college or university” means a public or private college or university that:

- (1) Offers either a two-year or four-year degree program;
- (2) Is located in the State of Arkansas;
- (3) Is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools;
- (4) Certifies to the Department of Higher Education that its students are accepted for transfer at institutions accredited by the commission; and
- (5) Does not discriminate against applicants, students, or employees on the basis of race, color, religion, sex, age, disability, or national origin in compliance with state and federal law.

**History.** Acts 2005, No. 2202, § 1; and substituted “Higher Learning Commission” for “Commission on Institutions 2011, No. 595, § 1. of Higher Education” in (3).

**Amendments.** The 2011 amendment inserted “either” and “two-year or” in (1);

**27-24-1005. Issuance — Renewal — Replacement.**

(a) The owner of a motor vehicle who is a resident of the State of Arkansas may apply for and renew annually a special license plate under this subchapter.

(b) An applicant for a special license plate under this subchapter shall remit the following fees:

(1) The fee required by law for the registration and licensing of the motor vehicle;

(2) A fee not to exceed twenty-five dollars (\$25.00) to cover the design-use contribution by the college or university or the Arkansas School for the Deaf or for fund-raising purposes; and

(3) A handling and administrative fee in the amount of ten dollars (\$10.00).

(c) To renew a special license plate issued under this subchapter, the owner of the motor vehicle shall remit to the Department of Finance and Administration the fees stated in subsection (b) of this section.

(d) To replace a special license plate issued under this subchapter:

(1) The owner of the motor vehicle shall remit the fee stated in subdivision (b)(3) of this section if the registration has not expired; or

(2) The owner of the motor vehicle shall remit the fees stated in subsection (b) of this section if the registration has expired.

(e)(1) The department shall remit the fees collected under subdivision (b)(2) of this section on a monthly basis to the college or university or the Arkansas School for the Deaf depending on the school for which each special license plate was purchased.

(2) The department shall also provide to each participating college or university or the Arkansas School for the Deaf a list of persons who have paid for a special license plate under this subchapter relating to that entity.

(f)(1) The fee remitted under subdivision (b)(3) of this section shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration.

(2) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(3) The fee shall not be considered or credited to the division as direct revenue.

(g) The registration of a special license plate under this subchapter may:

(1) Continue from year to year as long as it is renewed each year within the time and manner required by law; and

(2) Be renewed as provided under §§ 27-14-1012 and 27-14-1013.

(h) If an owner of a motor vehicle who was previously issued a special license plate under this subchapter fails to pay the fees required in subsection (c) of this section at the time of renewal, then the owner shall be issued a permanent license plate as provided under §§ 27-14-1007 and 27-14-1008.

(i) Upon the expiration of the registration of a special license plate under this subchapter, the owner of the motor vehicle may replace the special license plate with:

(1) A permanent license plate under §§ 27-14-1007 and 27-14-1008;

(2) A personalized license plate;

(3) A different special license plate under this subchapter; or

(4) Any other special license plate that the person is entitled to receive under this chapter.

**History.** Acts 2005, No. 2202, § 1; 2011, No. 726, §§ 2, 3.

**Amendments.** The 2011 amendment inserted "or the Arkansas School for the Deaf" in (b)(2); inserted "or the Arkansas

School for the Deaf depending on the school" in (e)(1); and, in (e)(2), inserted "or the Arkansas School for the Deaf" and added "relating to that entity" at the end.

**27-24-1010. Arkansas School for the Deaf.**

(a) The Director of the Department of Finance and Administration shall issue a special license plate for the Arkansas School for the Deaf in the manner and subject to the conditions provided under this subchapter.

(b) The special Arkansas School for the Deaf motor vehicle license plate shall:

(1) Be designed by the Department of Finance and Administration in consultation with the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf;

(2) Contain the words "Arkansas School for the Deaf" and a picture showing the American Sign Language hand shape for "I Love You"; and

(3) Be numbered consecutively.

(c) The director shall determine the amount of the cost for the issuance of the special license plate under this section as follows:

(1) The fee for the cost of initial orders of the new design that shall be based on the cost of the initial order;

(2) The number of applications that must be received to cover the cost of the initial order of the new design; or

(3) The combination of subdivisions (c)(1) and (2) of this section that must be received to cover the cost of the initial order of the new design.

(d) The department shall issue a special license plate under this section upon payment of:

(1) The fee required by law for registration of the motor vehicle;

(2)(A) Twenty-five dollars (\$25.00) to cover the design-use contribution.

(B) The design-use contribution shall be remitted monthly to the Arkansas School for the Deaf Foundation to be used for foundation purposes; and

(3)(A) A handling and administrative fee of ten dollars (\$10.00).

(B) The handling and administrative fee shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited to the division as supplemental and in addition to all other funds that may be deposited for the benefit of the division.

(C) The handling and administrative fee shall not be considered or credited to the division as direct revenue.

(e)(1) A special license plate issued under this section may be renewed annually or replaced under the procedures set out in § 27-24-1005.

(2) However, the division shall remit the fees collected under § 27-24-1005(b)(2) on a monthly basis to the Arkansas School for the Deaf Foundation.

**History.** Acts 2011, No. 726, § 4.



## SUBCHAPTER 13 — PUBLIC AND MILITARY SERVICE RECOGNITION

### SECTION.

- 27-24-1301. Purpose.  
 27-24-1302. Definitions.  
 27-24-1303. Firefighters.  
 27-24-1305. [Repealed.]

### SECTION.

- 27-24-1311. Professional firefighters.  
 27-24-1312. Cold War veterans.  
 27-24-1313. U. S. Veterans.

**Effective Dates.** Acts 2011, No. 639 § 4: May 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Fallen Firefighters Memorial Board has made great efforts to have fallen firefighters honored on the grounds of the State Capitol with a monument and memorial area; that additional funding is needed to make the monument and memorial area a reality in the near

future; and that this act is necessary because an increase in the fees dedicated for fundraising purposes for the firefighter special license plates will allow construction to begin on the Fallen Firefighters monument and memorial area. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2011."

### 27-24-1301. Purpose.

The purpose of this subchapter is to:

- (1) Continue the special license plates for the certain public service employees or public service retirees that existed before April 13, 2005, and to establish a procedure for other public service employees or retirees to obtain special license plates;
- (2) Honor the service of Cold War veterans by providing a special license plate that is available for issuance; and
- (3) Honor those individuals who served in the armed forces, but did not serve during a conflict or long enough to retire, by providing a special license plate that is available for issuance.

**History.** Acts 2005, No. 2202, § 1; 2009, No. 632, § 4; 2009, No. 651, § 1; 2011, No. 727, § 1.

**Amendments.** The 2009 amendment by No. 632 deleted "or military service retirees" and made related changes.

The 2009 amendment by No. 651 inserted (2), redesignated the remaining text accordingly, and made related changes.

The 2011 amendment added (3).

### 27-24-1302. Definitions.

As used in this subchapter:

- (1) "Cold War veteran" means any current or former member of the armed forces of the United States who establishes service during the Cold War era from September 2, 1945 — December 26, 1991 by presenting his or her military service discharge record, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense known as the DD Form 214;

(2) "Firefighter" means a person who is certified by the Arkansas Fire Protection Services Board as a certified firefighter or who has retired as a firefighter;

(3) "Professional firefighter" means a person who is in good standing with the Arkansas Professional Fire Fighters Association;

(4) "Public service" means a service provided by a city, a county, or the state government that requires licensure or certification by the person who is providing the service; and

(5) "Retired state trooper" means a former employee of the Department of Arkansas State Police who is eligible for and is receiving retirement benefits related to the retiree's employment as a state trooper.

**History.** Acts 2005, No. 2202, § 1; 2007, No. 590, § 1; 2009, No. 632, § 5; 2009, No. 651, § 2; 2011, No. 986, § 1.

**Amendments.** The 2009 amendment by No. 632 deleted (4), which defined "retired member of the armed forces of the United States," redesignated the subsequent subdivision, and made related changes.

The 2009 amendment by No. 651 inserted (1) and redesignated the subsequent subdivisions accordingly.

The 2011 amendment, in (1), substituted "establishes" for "has received a Cold War Recognition Certificate from the United States Secretary of Defense for" and added "by presenting his or her military service discharge record, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense known as the DD Form 214."

### **27-24-1303. Firefighters.**

(a) The Department of Finance and Administration shall continue the special license plate for firefighters that existed before April 13, 2005.

(b) The department shall seek the advice of the Arkansas Fire Protection Services Board before changing the design of the special license plate under this section.

(c)(1) A firefighter may apply for and annually renew a special license plate issued under this section.

(2) The fee for the initial application for a special license plate under this section is:

(A) The fee required by law for the registration and licensing of the motor vehicle;

(B) A handling and administrative fee in the amount of ten dollars (\$10.00); and

(C) An additional fee of five dollars (\$5.00) to be remitted monthly to the Arkansas Fallen Firefighters Memorial Board.

(3) The fee for the renewal of a special license plate under this section is the fee required by law for the registration and licensing of the motor vehicle and an additional fee of five dollars (\$5.00) to be remitted monthly to the Arkansas Fallen Firefighters Memorial Board.

(4) The replacement fee for a special license plate decal issued under this section is ten dollars (\$10.00).

(d)(1) Upon the initial application for a special license plate issued under this section, the firefighter shall provide adequate proof to the department that he or she is:

(A) Certified by the board as a firefighter; or

(B) Retired from active service as a firefighter at the time of applying for renewal.

(2) This subsection shall not require a person who has been issued a license plate under this section to present adequate proof of his or her status as a firefighter or retired firefighter to the department for the renewal of his or her license and registration.

(e)(1) The fee remitted under subdivision (c)(2)(B) of this section shall be deposited into the State Central Services Fund as direct revenue to the Revenue Division of the Department of Finance and Administration.

(2) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(3) The fee shall not be considered or credited to the division as direct revenue.

(f)(1) The department shall offer a banner or tape to be attached to the special license plates issued under this section that states "Retired".

(2) The "Retired" banner or tape shall be made available to a license plate holder who establishes that he or she is a firefighter retired from active service as provided under this section.

(3) This subsection shall not be construed to require a person who has been issued a "Retired" banner or tape under this section to present adequate proof of his or her status as a retired firefighter for the renewal of his or her license and registration.

**History.** Acts 2005, No. 2202, § 1; 2011, No. 639, § 1.

**A.C.R.C. Notes.** Acts 2011, No. 639, § 3, provided:

"(a) The Arkansas Fallen Firefighters Memorial Board shall submit to the director an application that includes the following:

"(1) A statement that the Arkansas Fallen Firefighters Memorial Board is:

"(i) A nonprofit organization that has been approved for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

"(ii) Based, headquartered, or has a chapter in Arkansas; and

"(iii) For social, civic, entertainment, or other purposes;

"(2) A statement that the Arkansas Fallen Firefighters Memorial Board is not:

"(i) A political party;

"(ii) Created primarily to promote a specific political belief; and

"(iii) Promoting any specific religion, faith, or anti-religion as its primary purpose;

"(3) The Arkansas Fallen Firefighters Memorial Board's financial plan for the funds received from the special license plate under this act that specifies the charitable use for the proceeds; and

"(4) An affidavit signed by an official of the Arkansas Fallen Firefighters Memorial Board that states that the proceeds from the special license plate will be used according to the financial plan submitted with the application.

"(c) The Arkansas Fallen Firefighters Memorial Board shall submit the information required under subsection (b) of this section within one hundred twenty (120) days after the effective date of this act.

"(d) The Arkansas Fallen Firefighters Memorial Board may submit the documentation required under this act along with its submission related to the design-use contribution fee under § 27-15-5201 et seq."



**Amendments.** The 2011 amendment, in (c)(2)(C), substituted “five dollars (\$5.00)” for “one dollar (\$1.00)” and “remitted monthly to the Arkansas Fallen

Firefighters Memorial Board” for “deposited into the Fallen Firefighters’ Memorial Fund.”

### **27-24-1305. [Repealed.]**

**Publisher’s Notes.** This section, concerning United States Armed Forces retired, was repealed by Acts 2009, No. 632,

§ 6. The section was derived from Acts 2005, No. 2202, § 1; 2007, No. 393, §§ 1, 2.

### **27-24-1311. Professional firefighters.**

(a) The Department of Finance and Administration shall create and issue a special license plate for professional firefighters under this section.

(b)(1) The department shall seek the advice of the Arkansas Professional Fire Fighters Association regarding the design of the special license plate under this section.

(2) The Arkansas Professional Fire Fighters Association may submit up to three (3) designs to the department for its consideration.

(c)(1) A professional firefighter may apply for and annually renew a special license plate issued under this section.

(2) The fee for the initial application for a special license plate under this section is:

(A) The fee required by law for the registration and licensing of the motor vehicle;

(B) A handling and administrative fee in the amount of ten dollars (\$10.00); and

(C) An additional fee of five dollars (\$5.00) to be remitted monthly to the Arkansas Fallen Firefighters Memorial Board.

(3) The fee for the renewal of a special license plate under this section is the fee required by law for the registration and licensing of the motor vehicle and an additional fee of five dollars (\$5.00) to be remitted monthly to the board.

(d)(1) Upon the initial application for a special license plate issued under this section, the professional firefighter shall provide adequate proof to the department that he or she is a member in good standing with the Arkansas Professional Fire Fighters Association.

(2) This subsection shall not require a person who has been issued a special license plate under this section to present adequate proof of his or her status as a professional firefighter to the department for the renewal of his or her license and registration.

(e) The limitation on professional firefighter special license plates issued under this section is two (2) special license plates for each household.

(f)(1) The fee remitted under subdivision (c)(2)(B) of this section shall be deposited into the State Central Services Fund as direct revenue to the Revenue Division of the Department of Finance and Administration.

(2) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(3) The fee shall not be considered or credited to the division as direct revenue.

**History.** Acts 2007, No. 590, § 2; 2011, No. 639, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 639, § 3, provided:

“(a) The Arkansas Fallen Firefighters Memorial Board shall submit to the director an application that includes the following:

“(1) A statement that the Arkansas Fallen Firefighters Memorial Board is:

“(i) A nonprofit organization that has been approved for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

“(ii) Based, headquartered, or has a chapter in Arkansas; and

“(iii) For social, civic, entertainment, or other purposes;

“(2) A statement that the Arkansas Fallen Firefighters Memorial Board is not:

“(i) A political party;

“(ii) Created primarily to promote a specific political belief; and

“(iii) Promoting any specific religion, faith, or anti-religion as its primary purpose;

“(3) The Arkansas Fallen Firefighters Memorial Board’s financial plan for the

funds received from the special license plate under this act that specifies the charitable use for the proceeds; and

“(4) An affidavit signed by an official of the Arkansas Fallen Firefighters Memorial Board that states that the proceeds from the special license plate will be used according to the financial plan submitted with the application.

“(c) The Arkansas Fallen Firefighters Memorial Board shall submit the information required under subsection (b) of this section within one hundred twenty (120) days after the effective date of this act.

“(d) The Arkansas Fallen Firefighters Memorial Board may submit the documentation required under this act along with its submission related to the design-use contribution fee under § 27-15-5201 et seq.”

**Amendments.** The 2011 amendment, in (c)(2)(C) and (c)(3), substituted “five dollars (\$5.00)” for “one dollar (\$1.00)” and “remitted monthly to the Arkansas Fallen Firefighters Memorial Board” for “deposited into the Fallen Firefighters’ Memorial Fund.”

## 27-24-1312. Cold War veterans.

(a) The Department of Finance and Administration shall create for issuance a special license plate that bears a decal that states “Cold War Veteran” to be issued to an eligible applicant as provided under this subchapter.

(b)(1) The department shall design the special license plate that bears the decal issued under this section.

(2) In lieu of the legend, “The Natural State” or any succeeding legend, there shall be placed across the bottom of the license plate a permanent decal bearing the words “Cold War Veteran”.

(c)(1) A Cold War veteran may apply for and annually renew a special license plate issued under this section.

(2) The fee for the initial application for a special license plate under this section is the fee required by law for the registration and licensing of the motor vehicle.

(3) The fee for the renewal of a special license plate under this section is the fee required by law for the registration and licensing of the motor vehicle.

(4) The replacement fee for a special license plate issued under this section is five dollars (\$5.00).

(d) Upon the initial application of a special license plate issued under this section, the Cold War veteran shall provide adequate proof to the department that he or she is a Cold War veteran.

(e) The registration of a special license plate under this section may:

(1) Continue from year to year as long as it is renewed each year within the time and manner required by law; and

(2) Be renewed as provided under §§ 27-14-1012 and 27-14-1013.

(f) As long as the fee for the special license plate issued under this section is the fee required by law for the registration and licensing of the motor vehicle and not that for a nominal fee military service and veteran plate under § 27-24-201 et seq., a Cold War veteran may obtain multiple license plates, not to exceed the number of vehicles that he or she owns.

**History.** Acts 2009, No. 651, § 3; 2011, No. 986, § 2.

**Amendments.** The 2011 amendment added (f).

### **27-24-1313. U. S. Veterans.**

(a) The Department of Finance and Administration shall create for issuance a special license plate that bears a decal stating "U. S. Veteran" to be issued to an eligible applicant who establishes that he or she has served in the:

- (1) United States Army;
- (2) United States Navy;
- (3) United States Marine Corps;
- (4) United States Air Force;
- (5) United States Coast Guard;
- (6) Army National Guard; or
- (7) Air National Guard.

(b)(1) The special license plate shall be of the same basic design as military service and veterans special license plates issued under § 27-24-209, except that in lieu of the legend "The Natural State" at the bottom of the special license plate, the plate shall bear a decal stating "U. S. Veteran".

(2) The special license plate shall include a decal showing the veteran's branch of service.

(c)(1) A United States veteran may apply for and annually renew a special license plate issued under this section.

(2) The initial application and registration fee for the license plate created under this section is the full fee amount as specified in § 27-14-601(a).

(3) The fee for the renewal of a special license plate under this section is the amount specified in § 27-14-601(a).

(4) The replacement fee for a special license plate issued under this section is five dollars (\$5.00).



(d) Upon the initial application for a special license plate issued under this section, the United States veteran shall provide adequate proof to the department that he or she is a United States veteran.

(e) The special license plate created under this section may be used only on a motor vehicle as defined and classified in § 27-24-103.

(f) The registration of a special license plate under this section may:

- (1) Continue from year-to-year as long as it is renewed each year within the time and manner required by law; and

- (2) Be renewed as provided under §§ 27-14-1012 and 27-14-1013.

**History.** Acts 2011, No. 727, § 2.

## SUBCHAPTER 14 — SPECIAL INTEREST LICENSE PLATES

### SECTION.

27-24-1409. Support Animal Rescue and Shelters special license plate decal.

### SECTION.

27-24-1410. Prostate Cancer Awareness.

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Acts 2009, No. 692, § 3: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the cat and dog populations in Arkansas are expanding exponentially, that animal shelters are overrun with unwanted cats and dogs, that municipalities and counties lack the funds to keep up with the expanding cat and dog populations, that the recent

downturn in the economy is adding to the unwanted cat and dog problem, and that additional funds are drastically needed to contend with the ever-expanding cat and dog populations. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

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### **27-24-1409. Support Animal Rescue and Shelters special license plate decal.**

(a)(1) The Director of the Department of Finance and Administration shall issue a special license plate that bears a decal that states "Support Animal Rescue and Shelters" in the manner and subject to the conditions provided under this subchapter.

(2) The procedures regarding costs under § 27-24-1404(c)(1)(A) shall apply.

(b) Any motor vehicle owner annually may apply for and renew a special license plate that bears the decal described in subdivision (a)(1) of this section.

(c)(1) The Department of Finance and Administration shall issue a special license plate that bears the decal under this section upon payment of:

- (A) The fee required by law for registration of the motor vehicle;

- (B) Payment of twenty-five dollars (\$25.00) to cover the design-use contribution; and

(C) Payment of a handling and administrative fee of ten dollars (\$10.00).

(2)(A) The handling and administrative fee shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited to the division as supplemental and in addition to all other funds that may be deposited for the benefit of the division.

(B) The handling and administrative fee shall not be considered or credited to the division as direct revenue.

(3) The design-use contribution of twenty-five dollars (\$25.00) shall be remitted monthly to the Treasurer of State for deposit into the State Treasury as special revenues for the Animal Rescue and Shelter Trust Fund, § 19-5-1136.

(d)(1) The special license plate that bears a decal issued under this section may be renewed annually or replaced under the procedures set out in § 27-24-1405.

(2) However, the division shall remit the fees collected under § 27-24-1405(b)(2) on a monthly basis to the Treasurer of State for deposit into the State Treasury as special revenues for the Animal Rescue and Shelter Trust Fund, § 19-5-1136.

**History.** Acts 2009, No. 692, § 2.

## **27-24-1410. Prostate Cancer Awareness.**

(a) The Director of the Department of Finance and Administration shall issue a special license plate for prostate cancer awareness in the manner and subject to the conditions provided for under this subchapter.

(b) The special prostate cancer awareness motor vehicle license plate shall be:

(1)(A) Designed by the Arkansas Prostate Cancer Foundation.

(B) The design shall be submitted for design approval by the director under rules promulgated by the director; and

(2) Numbered consecutively.

(c) The director shall determine the amount of the costs for the issuance of the special license plate under this section as follows:

(1) The fee for the cost of initial orders of the new design, which shall be based on the cost of the initial order;

(2) The number of applications that must be received to cover the cost of the initial order of the new design; or

(3) The combination of subdivisions (c)(1) and (2) of this section that must be received to cover the cost of the initial order of the new design.

(d) The Department of Finance and Administration shall issue a special license plate under this section upon payment of:

(1) The fee required by law for registration of the motor vehicle;

(2)(A) Twenty-five dollars (\$25.00) to cover the design-use contribution.

(B) The design-use contribution shall be remitted monthly to the foundation to be used for foundation purposes; and

(3)(A) A handling and administrative fee of ten dollars (\$10.00).

(B) The handling and administrative fee shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited to the division as supplemental and in addition to all other funds that may be deposited for the benefit of the division.

(C) The handling and administrative fee shall not be considered or credited to the division as direct revenue.

(e)(1) A special license plate issued under this section may be renewed annually or replaced under the procedures set out in § 27-24-1405.

(2) However, the division shall remit the fees collected under § 27-24-1405(b)(2) on a monthly basis to the foundation.

**History.** Acts 2011, No. 830, § 1.

## SUBCHAPTER 16 — DEPARTMENT OF PARKS AND TOURISM

### SECTION.

27-24-1601. Purpose.

27-24-1602. Special license plates.

### SECTION.

27-24-1603. Issuance — Renewal — Replacement.

### 27-24-1601. Purpose.

The purpose of this subchapter is to:

(1) Authorize the design and issuance of license plates featuring state parks for the Department of Parks and Tourism;

(2) Provide funding to a cash fund to be used by the Department of Parks and Tourism for sponsoring college scholarships in the state parks profession and the state parks education programs; and

(3) Authorize the Department of Finance and Administration to issue, renew, and replace the license plates authorized for the Department of Parks and Tourism.

**History.** Acts 2011, No. 292, § 1.

### 27-24-1602. Special license plates.

(a)(1) The Director of the Department of Finance and Administration shall accept requests from the Department of Parks and Tourism to create and issue special license plates under this subchapter.

(2) The Department of Parks and Tourism shall submit with a request for a special license plate a proposed design for the approval of the director.

(b) When considering a request from the Department of Parks and Tourism for a special license plate, the director shall consider the following factors:



(1) The administrative cost to the Department of Finance and Administration for issuance of a Department of Parks and Tourism special license plate; and

(2) The estimated demand for the special license plate requested by the Department of Parks and Tourism.

(c)(1) If a request submitted under subsection (a) of this section is approved, the director shall determine:

(A) The fee for the cost of initial orders of new designs for special license plates that shall be based on the cost of initial orders of new designs for special license plates;

(B) The number of applications that must be received to cover the cost of the initial orders of new designs for special license plates; or

(C) The combination of subdivisions (c)(1)(A) and (B) of this section that must be received to cover the cost of the initial orders of new designs for special license plates.

(2)(A) The fee remitted under subdivision (c)(1) of this section shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited as supplemental and in addition to all other funds that may be deposited for the benefit of the division.

(B) The fee remitted under subdivision (c)(1) of this section shall not be considered or credited to the division as direct revenue.

**History.** Acts 2011, No. 292, § 1.

### **27-24-1603. Issuance — Renewal — Replacement.**

(a) A person who owns a motor vehicle and who is a resident of the state may apply for and renew annually a special license plate under this subchapter.

(b) An applicant shall remit the following fees to obtain a special license plate issued under this subchapter for use on a motor vehicle:

(1) The fee required by law for the registration and licensing of the motor vehicle;

(2)(A) A fee not to exceed twenty-five dollars (\$25.00) to cover the design-use contribution by the Department of Parks and Tourism or to cover contributions for fundraising purposes.

(B) The fee remitted under subdivision (b)(2)(A) of this section shall be deposited into a cash fund to be used by the Department of Parks and Tourism for the following purposes:

(i) Sponsoring college scholarships related to the field of conservation; and

(ii) Providing conservation education programs; and

(3)(A) A handling and administrative fee in the amount of ten dollars (\$10.00).

(B) The fee remitted under subdivision (b)(3)(A) of this section shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(C) The fee remitted under subdivision (b)(3)(A) of this section shall not be considered or credited to the division as direct revenue.

(c) To renew a special license plate issued under this subchapter, the owner of the motor vehicle shall remit the fees stated in subsection (b) of this section.

(d) To replace a special license plate issued under this subchapter the owner of the motor vehicle shall remit:

(1) The fee stated in subdivision (b)(3) of this section if the registration has not expired; or

(2) The fees stated in subsection (b) of this section if the registration has expired.

(e) The registration of a special license plate under this subchapter may:

(1) Continue from year-to-year if it is renewed each year within the time and manner required by law; and

(2) Be renewed as provided in § 27-14-1012.

**History.** Acts 2011, No. 292, § 1.

## SUBCHAPTER 17 — CONSERVATION DISTRICTS

### SECTION.

27-24-1701. Authorization.

27-24-1702. Design — Cost.

27-24-1703. Issuance — Renewal — Replacement.

### SECTION.

27-24-1704. Rules.

### **27-24-1701. Authorization.**

The Director of the Department of Finance and Administration shall issue a special license plate for conservation districts in the manner and subject to the conditions provided under this subchapter.

**History.** Acts 2011, No. 804, § 1.

### **27-24-1702. Design — Cost.**

(a) The special motor vehicle license plate for conservation districts shall:

(1) Be designed by the Department of Finance and Administration in consultation with the Arkansas Association of Conservation Districts; and

(2) Be numbered consecutively.

(b) The Director of the Department of Finance and Administration shall determine the amount of the costs for the issuance of the special license plate under this section as follows:

(1) The fee for the cost of initial orders of the new design that shall be based on the cost of the initial order;

(2) The number of applications that must be received to cover the cost of the initial order of the new design; or

(3) The combination of subdivisions (b)(1) and (2) of this section that must be received to cover the cost of the initial order of the new design.

**History.** Acts 2011, No. 804, § 1.

### **27-24-1703. Issuance — Renewal — Replacement.**

(a) A person who owns a motor vehicle and who is a resident of the state may apply for and renew annually a special license plate under this subchapter.

(b) The Department of Finance and Administration shall issue and renew a special license plate under this section upon payment of:

(1) The fee required by law for registration of the motor vehicle;

(2)(A) Twenty-five dollars (\$25.00) to cover the design-use contribution.

(B) The design-use contribution shall be remitted monthly to the Arkansas Association of Conservation Districts to be used to provide education and assistance to landowners concerning the conservation, maintenance, improvement, development, and use of land, soil, water, trees, vegetation, fish, wildlife, open spaces, and other renewable natural resources; and

(3)(A) A handling and administrative fee of ten dollars (\$10.00).

(B) The handling and administrative fee shall be:

(i) Deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration; and

(ii) Credited to the division as supplemental and in addition to all other funds that may be deposited for the benefit of the division.

(C) The handling and administrative fee shall not be considered or credited to the division as direct revenue.

(c) To replace a special license plate issued under this subchapter:

(1) The owner of the motor vehicle shall remit the fee stated in subdivision (b)(3) of this section if the registration has not expired; or

(2) The owner of the motor vehicle shall remit all fees stated in subsection (b) of this section if the registration has expired.

(d) The registration of a special license plate under this subchapter may:

(1) Continue from year to year so long as it is renewed each year within the time and manner required by law; and

(2) Be renewed as provided under §§ 27-14-1012 and 27-14-1013.

(e) If an owner of a motor vehicle who was previously issued a special license plate under this subchapter fails to pay the fees required in subsection (b) of this section at the time of renewal, the owner shall be issued a permanent license plate as provided under §§ 27-14-1007 and 27-14-1008.



(f) Upon the expiration of the registration of a special license plate under this subchapter, the owner of the motor vehicle may replace the special license plate with:

- (1) A permanent license plate under §§ 27-14-1007 and 27-14-1008;
- (2) A personalized license plate; or
- (3) Any other special license plate that the person is entitled to receive under this chapter.

**History.** Acts 2011, No. 804, § 1.

## **27-24-1704. Rules.**

The Director of the Department of Finance and Administration may promulgate rules for the administration of this subchapter.

**History.** Acts 2011, No. 804, § 1.

# ***SUBTITLE 3. MOTOR VEHICLES AND THEIR EQUIPMENT***

## **CHAPTER 34**

### **CHILD PASSENGER PROTECTION ACT**

#### **SECTION.**

**27-34-105.** Exceptions to provisions.

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**Effective Dates.** Acts 2009, No. 308, § 6: June 30, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act will improve the safety and health of Arkansans; that the changes to the law will qualify the state to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs; that the deadline for the

state to have a primary seatbelt law in place that is effective and enforceable to qualify for the federal grant program is June 30, 2009; and that this act is immediately necessary to secure substantial federal funding and make the roads and highways safer in the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on June 30, 2009."

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## **27-34-105. Exceptions to provisions.**

The provisions of this chapter shall not apply when any one (1) of the following conditions exists:

- (1) The motor vehicle is being used as an ambulance or other emergency vehicle;
- (2) When an emergency exists that threatens:
  - (A) The life of any person operating a motor vehicle to whom this section otherwise would apply; or

(B) The life of any child who otherwise would be required to be restrained under this chapter; or

(3) If any child who would otherwise be required to be restrained under this chapter is physically unable because of medical reasons to use a child passenger safety seat system or seat safety belt and the medical reasons are certified by a physician who states the nature of such medical conditions as well as the reason the use of a child passenger safety seat system or seat safety belt is inappropriate.

**History.** Acts 1983, No. 749, § 3; A.S.A. 1947, § 75-2603; Acts 1995, No. 1274, § 3; 2009, No. 308, § 5.

**A.C.R.C. Notes.** Acts 2009, No. 308, § 1, provided: "Legislative findings. The General Assembly finds:

"(1) In 2007, five hundred twenty-five (255) people died while riding in passenger vehicles in Arkansas and sixty-five percent (65%) of those who died were not wearing a seat belt;

"(2) In 2007, sixty-one (61) people died after being ejected from their vehicles during a rollover crash because they were not wearing their seat belts; and

"(3) By adopting a primary seat belt law, Arkansas can expect an increase in the use of seat belts by motorists of approximately twelve percent (12%); and

"(4) Adopting a primary seat belt law could save as many as forty-seven (47) lives each year, prevent approximately five hundred four (504) serious injuries each year, and save an estimated one hundred four million dollars (\$104,000,000) in economic costs each year; and

"(5) The adoption of the primary seat belt law will entitle the State of Arkansas to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs."

**Amendments.** The 2009 amendment added "to provisions" to the section heading and added "and the medical reasons ... safety belt is inappropriate" at the end of (3).

## CHAPTER 35

### SIZE AND LOAD REGULATIONS

#### SUBCHAPTER

#### 2. WEIGHTS AND DIMENSIONS.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### 27-35-102. Certain vehicles exempted.

#### CASE NOTES

#### Implements of Husbandry.

Conflict between this section and § 27-35-210 was irreconcilable and resulted in a repeal by implication of this section for purposes of farm tractors traveling on highways at night. Therefore, § 27-35-210 required that a permit be obtained for movement of an oversize field sprayer that

exceeded the maximum width allowed on Arkansas highways without a permit at night, and the trial court erred in granting summary judgment to the owner of the sprayer on an accident victim's negligence claim against the owner and its employee. *Mitchell v. Ramsey*, 2011 Ark. App. 9, — S.W.3d — (2011).

**SUBCHAPTER 2 — WEIGHTS AND DIMENSIONS**

## SECTION.

27-35-203. Single and tandem axle load limits.

## SECTION.

27-35-210. Permits for special cargoes.

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**Effective Dates.** Acts 2009, No. 493, § 2: Mar. 19, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the front or steering axle weight limit is too low; that raising the front or steering axle weight limit will enable truck owners and operators to haul loads more efficiently and obtain business that would not otherwise be obtainable; and that this act is immediately necessary to stimulate the economy and prevent the loss of jobs and hauling contracts. There-

fore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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**27-35-203. Single and tandem axle load limits.**

(a) **MAXIMUM SINGLE AXLE LOAD.** The total gross load imposed on the highway by the wheels of any one (1) single axle of a vehicle shall not exceed twenty thousand pounds (20,000 lbs.).

(b) **MAXIMUM TANDEM AXLE LOAD.** (1) The total gross load imposed on the highway by two (2) or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than forty inches (40") and not more than ninety-six inches (96") apart, extending across the full width of the vehicle, shall not exceed thirty-four thousand pounds (34,000 lbs.).

(2) No one (1) axle of any such group of two (2) or more consecutive axles shall exceed the load permitted for a single axle.

(c) **MAXIMUM WEIGHT ON FRONT OR STEERING AXLE.** (1) The maximum weight imposed on the highway by the front or steering axle of a vehicle shall not exceed the amount of the manufacturer's axle weight rating for the front or steering axle or twenty thousand pounds (20,000 lbs.), whichever is less. If the vehicle has no plate attached by the manufacturer providing the axle and gross weight ratings, the maximum weight allowed for the front or steering axle shall be twelve thousand pounds (12,000 lbs.).

(2) The combined maximum weight imposed on the highway by a front or steering axle and any adjacent axle whose centers may be included between parallel transverse vertical planes spaced more than forty inches (40") and not more than ninety-six inches (96") apart shall not exceed twenty-four thousand pounds (24,000 lbs.).



(3) A "front or steering axle", for the purposes of this subsection, shall be defined as an axle attached to the front of the vehicle and which is utilized to steer the vehicle on a given path or direction.

(d)(1) Subject to the limit upon the weight imposed upon the highway through any one (1) axle as set forth in subsections (a)-(c) of this section, no vehicle, or combination of vehicles, shall be operated upon the highways of this state when the gross weight is in excess of eighty thousand pounds (80,000 lbs.).

(2) Greater gross weights than permitted may be authorized by special permit issued by competent authority as authorized by law, or lesser gross weights will be required when highways are posted.

(e)(1) No vehicle, or combination of vehicles, shall operate upon any highway in this state when the total gross load imposed on the highway by the wheels of any one (1) single axle of such vehicle or combination exceeds eighteen thousand pounds (18,000 lbs.), nor when the total gross load imposed on the highway by two (2) or more consecutive axles of any such vehicle or combination of vehicles whose centers may be included between parallel transverse vertical planes spaced more than forty inches (40") and not more than ninety-six inches (96") apart, extending across the full width of the vehicle or combination of vehicles, exceeds thirty-two thousand pounds (32,000 lbs.), nor when the total gross weight of the vehicle, or combination of vehicles thereof, is in excess of seventy-three thousand two hundred eighty pounds (73,280 lbs.) unless the vehicle, or combination thereof, shall not exceed the value given in Table I corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot.

Table I

GROSS WEIGHTS ALLOWABLE UNDER THE FORMULA CONTAINED IN THE FEDERAL WEIGHT LAW ENACTED JANUARY 4, 1975, THAT ARE APPLICABLE TO VEHICLES OR COMBINATIONS THEREOF IN ARKANSAS

$$\text{Formula } W = 500 \left[ \frac{LN}{N-1} + 12N + 36 \right]$$

Except that two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds (34,000 lbs.) each, providing that the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six feet (36') or more.

W = maximum weight in pounds carried on any group of two (2) or more axles computed to the nearest five hundred pounds (500 lbs.).

L = distance in feet between the extremes of any group of two (2) or more consecutive axles.

N = number of axles in group under consideration.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles		
	4 axles	5 axles	6 axles
33			74,000
34			74,500
35			75,000
36			75,500
37			76,000
38			77,000
39			77,500
40			78,000
41		73,500	78,500
42		74,000	79,000
43		75,000	80,000
44		75,500	80,000
45		76,000	80,000
46		76,500	80,000
47	73,500	77,500	80,000
48	74,000	78,000	80,000
49	74,500	78,500	80,000
50	75,500	79,000	80,000
51	76,000	80,000	80,000
52	76,500	80,000	80,000
53	77,500	80,000	80,000
54	78,000	80,000	80,000
55	78,500	80,000	80,000
56	79,000	80,000	80,000
57	80,000	80,000	80,000

(2)(A) If the Federal Highway Administration or the United States Congress prescribes or adopts vehicle size or weight limits greater than those prescribed by the Federal-Aid Highway Act of 1956, which limits exceed, in full or in part, the provisions of subsection (a), (b), (c), (d), or (e) of this section, the State Highway Commission shall adopt size and weight limits comparable to those prescribed or adopted by the Federal Highway Administration or the United States Congress and shall authorize the limits to be used by owners or operators of vehicles while the vehicles are using highways within this state.

(B) No vehicle size or weight limit so adopted by the commission shall be less in any respect than those provided for in subsection (a), (b), (c), (d), or (e) of this section.

(f)(1)(A) Vehicles, or a combination of vehicles, transporting products commonly recognized in interstate commerce at gross weights exceeding seventy-three thousand two hundred eighty pounds (73,280 lbs.) shall be permitted direct access across any highway in this state

to or from the nearest federal interstate highway or the nearest state primary highway.

(B) Vehicles, or combinations thereof, shall be subject to the limits set forth in subsections (a)-(e) and (g) of this section.

(2) Where more than one (1) highway in this state affords access to or from the point of shipment or receipt within this state, the commission may designate the access route to or from the nearest federal interstate highway or state-designated primary highway.

(g)(1)(A) Vehicles, or combinations of vehicles, which vehicles or combinations of vehicles have a total outside width in excess of one hundred two inches (102") but not exceeding one hundred eight inches (108") used for hauling compacted seed cotton from the farm to the first point at which such seed cotton shall first undergo any processing, preparation for processing, or transformation from its compacted state shall be permitted an eight thousand pounds (8,000 lbs.) per axle variance above the maximum allowable gross axle weight for single and tandem axles set forth in subsections (a) and (b) and subdivision (c)(1) of this section; provided, no such variance for such vehicles from the formula prescribed in subsection (e) of this section, nor from the axle weight nor overall maximum gross weight shall be allowable on federal interstate highways. Provided, further, no vehicle or combination of vehicles permitted the above axle variance, which vehicle or combination of vehicles has only three (3) axles, shall exceed a maximum overall gross weight of seventy thousand pounds (70,000 lbs.) and no such vehicle or combination of vehicles permitted the above axle variance, which vehicle or combination of vehicles has four (4) or more axles, shall exceed a maximum overall gross weight of eighty thousand pounds (80,000 lbs.).

(B) Vehicles, or combinations of vehicles, with five (5) axles and used exclusively by the owner of livestock or poultry for hauling animal feed to the owner's livestock or poultry for consumption in this state shall be permitted an eight percent (8%) variance above the allowable gross weight whenever the formula in subsection (e) of this section is applied to the vehicle or combination of vehicles. A maximum gross weight, including any allowable variance or tolerance, shall not exceed eighty thousand pounds (80,000 lbs.).

(C) Vehicles, or combinations of vehicles, used exclusively for hauling solid waste, as defined by regulations promulgated by the commission, shall be permitted an eight percent (8%) variance above the allowable gross weight whenever the formula in subsection (e) of this section is applied to the vehicle or combination of vehicles. However, the maximum gross weight, including any allowable variance or tolerance, shall not exceed eighty thousand pounds (80,000 lbs.).

(2)(A) Vehicles, or a combination of vehicles, meeting all of the requirements of subdivision (g)(1)(B) or subdivision (g)(1)(C) of this section shall not be required to meet the tandem axle load limits of subsection (b) of this section if the vehicles, or combinations thereof,



do not exceed the allowable gross weight permitted by the formula in subsection (e) of this section, plus any variance, and do not exceed a gross weight of eighty thousand pounds (80,000 lbs.).

(B)(i) No tandem axle on any vehicle, or a combination of vehicles, meeting all of the requirements of subdivision (g)(1)(B) or subdivision (g)(1)(C) of this section shall exceed thirty-six thousand five hundred pounds (36,500 lbs.) under this subsection.

(ii) No variance on gross weight or axle shall be permitted on federal interstate highways.

(iii) When a violation of this subsection occurs, fines and penalties to be assessed for vehicles otherwise meeting the requirements of subdivision (g)(1)(B) or subdivision (g)(1)(C) of this section shall be computed only on the basis of the excess weight over and above the maximum weight for which the vehicle qualifies under the formula prescribed in subsection (e) of this section plus an eight percent (8%) variance.

(iv) When a violation of this subsection occurs, fines and penalties to be assessed for vehicles otherwise meeting the requirements of subdivision (g)(1)(A) of this section shall be computed only on the basis of the excess weight over and above seventy thousand pounds (70,000 lbs.), including the variance, for a three-axle vehicle, or combination of vehicles, and only on the basis of the excess weight over and above eighty thousand pounds (80,000 lbs.), including the variance, for a vehicle, or combination of vehicles, with four (4) or more axles.

(h)(1) When any axle, including any enforcement tolerance, is overloaded, but the total weight of all axles, including the steering axle, does not exceed the maximum total weight allowed for all axles, including the steering axle, the operator shall be permitted to unload a portion of the load or to shift the load if this will not overload some other axle, without being charged with violating this section and without being required to pay the penalties provided by law.

(2) The maximum axle load provided for in this section is subject to reduction as provided in §§ 27-35-101 — 27-35-103.

(i)(1) A truck tractor and single semi-trailer combination with five (5) axles hauling sand, gravel, rock, or crushed stone and vehicles or combinations of vehicles with five (5) axles hauling unfinished and unprocessed farm products, forest products, or other products of the soil shall be exempt from the federal bridge formula found in subsection (e) of this section on noninterstate highways in this state.

(2)(A) A truck tractor and single semi-trailer combination with five (5) axles hauling sand, gravel, rock, or crushed stone shall comply with a tandem axle limit of thirty-four thousand pounds (34,000 lbs.) and a single axle limit of twenty thousand pounds (20,000 lbs.) provided that the total gross weight shall not exceed eighty thousand pounds (80,000 lbs.).

(B) Vehicles, or combinations of vehicles, with five (5) axles hauling unfinished and unprocessed farm products, forest products, or

other products of the soil shall comply with a tandem axle limit of thirty-six thousand five hundred pounds (36,500 lbs.) and a single axle limit of twenty thousand pounds (20,000 lbs.) provided that the total gross weight shall not exceed eighty-five thousand pounds (85,000 lbs.).

(C) Provided, no tandem axle shall exceed thirty-four thousand pounds (34,000 lbs.) while operated on the federal interstate highways of this state.

(3) No vehicle, or combination of vehicles, meeting all of the requirements of this subsection, shall be allowed any variance on overall gross weight or axle weight while operating on the federal interstate highways.

**History.** Acts 1955, No. 98, § 5; 1963, No. 78, § 3; 1965, No. 17, § 1; 1969, No. 103, § 1; 1971, No. 97, § 1; 1973, No. 419, §§ 1, 2; 1983, No. 7, §§ 3, 4; 1983, No. 580, §§ 1, 2; 1985, No. 415, § 1; A.S.A. 1947, §§ 75-817, 75-817.1; Acts 1987, No. 278, § 1; 1987, No. 379, § 1; 1989, No. 638, § 1; 1991, No. 1031, §§ 1, 2; 1991, No. 1139, §§

1, 4; 1991, No. 1231, §§ 1, 2; 1992 (1st Ex. Sess.), No. 68, §§ 5, 6; 1992 (1st Ex. Sess.), No. 69, §§ 5, 6; 1995, No. 851, §§ 5, 6; 2007, No. 640, §§ 1-4; 2009, No. 493, § 1.

**Amendments.** The 2009 amendment substituted “twenty-four thousand pounds (24,000 lbs.)” for “twenty thousand pounds (20,000 lbs.)” in (c)(2).

## 27-35-206. Width of vehicles.

### CASE NOTES

#### Width Restriction.

Conflict between §§ 27-35-102 and 27-35-210 was irreconcilable and resulted in a repeal by implication of § 27-35-102 for purposes of farm tractors traveling on highways at night. Therefore, § 27-35-210 required that a permit be obtained for movement of a field sprayer that exceeded

the maximum width allowed on Arkansas highways without a permit at night, and the trial court erred in granting summary judgment to the owner of the sprayer on an accident victim's negligence claim against the owner and its employee. *Mitchell v. Ramsey*, 2011 Ark. App. 9, — S.W.3d — (2011).

## 27-35-210. Permits for special cargoes.

(a)(1)(A) The State Highway Commission, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, may, in their discretion and as provided in this section, upon receipt of application made in person, in writing, by telephone, or by any acceptable means of electronic communication, and upon good cause being shown therefor, issue a special permit in writing to applicants desiring to transport cargoes of such nature that the cargo cannot readily be taken apart, separated, dismembered, or otherwise reduced in size or weight.

(B) The permit shall authorize the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this subchapter or otherwise not in conformity with the provisions of this subchapter upon any highway under the jurisdiction of the agency granting the permit and for the maintenance of which the agency is responsible.



(C) No vehicle or combination of vehicles with a multi-unit or otherwise reducible overload may be issued a special permit as provided in this section.

(D) The commission may delegate to other state agencies the authority given in this section to issue special permits.

(2)(A) It shall not be necessary to obtain a permit for nor shall it be unlawful to move any vehicle or machinery in excess of the maximum width prescribed in § 27-35-206 and which is used only for normal farm purposes such as, but not limited to, hay harvesting equipment, plows, tractors, bulldozers, combines, etc., where:

(i) The vehicle or machinery is hauled on a vehicle licensed as a natural resources vehicle;

(ii) The vehicle or machinery is owned by a person primarily engaged in farming operations and is being operated by an owner of the vehicle or an owner's employee;

(iii) The vehicle or machinery is either:

(a) Being transported by a farm machinery equipment dealer or repair person in making a delivery of new or used equipment or machinery to the farm of the purchaser; or

(b) Being used in making a pickup and delivery of the farm machinery or equipment from the farm to a shop of a farm equipment dealer or repair person for repairs and return to the farm; and

(iv) The movement is performed during daylight hours within a radius of fifty (50) miles of the point of origin thereof and no part of the movement is upon any highway designated and known as a part of the national system of interstate and defense highways or any fully controlled access highway facility.

(B) It shall not be unlawful to nor shall it be necessary to obtain a special permit to transport round bales of hay upon any public highway or road that is not a fully controlled highway or road if the load does not exceed twelve feet (12') in width.

(C) Notwithstanding the provisions of subdivision (a)(2)(A) of this section, permits may be issued for the movement of earthmoving equipment that is a tractor with dirt pan in tow used primarily for farming operations to travel upon the state highways in excess of a fifty-mile radius of the point of origin or for the movement of earthmoving equipment that is a tractor with dirt pan in tow used primarily for commercial earthmoving operations for travel upon state highways of any distance subject to the following requirements:

(i) The permit shall be issued only to owners of the vehicles who are primarily engaged in farming or commercial earthmoving operations;

(ii) The permit issued shall be limited to daylight operation for a specified seventy-two-hour period and shall specify the route of travel;

(iii) No part of the movement may be upon any interstate highway or fully controlled access facility;

(iv) Proof of liability insurance for the tow vehicle shall be submitted to the Arkansas State Highway and Transportation Department;



(v) Vehicles shall be accompanied by a front escort vehicle with flashing amber lights, radio contact with the vehicle operator, and "wide load" signs;

(vi)(a) Vehicles may be moved in convoys of no more than three (3) vehicles with escorts at the front and rear of the convoy.

(b) Convoys shall pull off the highway at sufficient intervals to allow traffic to pass;

(vii) A permit may be issued for no more than two (2) dirt pans to be towed by one (1) tractor; and

(viii) Permit fees shall be set by the commission.

(D)(i) It shall not be necessary to obtain a permit, and it shall be lawful to move any motor home or camping trailer in excess of the maximum width prescribed under § 27-35-206 if the excess width is attributable to a noncargo-carrying appurtenance that extends no more than six inches (6") beyond the body of the vehicle.

(ii) As used in this section, "appurtenance" means:

(a) Awnings and awning support hardware; and

(b) Any appendage that is intended to be an integral part of a motor home or camping trailer.

(b)(1)(A) Except as is otherwise provided for by law, no application shall include nor shall any permit be issued for more than a single continuous movement or operation by one (1) vehicle.

(B) An application may include a request for and a permit may be issued for two (2) or more consecutive movements or operations by a vehicle, all of which shall be executed or performed within six (6) consecutive days and which must be limited to two (2) contiguous counties within the state, which counties must be specified at the time of application.

(C)(i) An application may include a request for a permit for consecutive movements or operations of a vehicle with a cargo not exceeding ten feet eight inches (10' 8") in width along one designated route, all of which movements or operations have origins from an adjacent state and which movements or operations shall be executed or performed within the period of valid vehicle registration.

(ii) A permit may be issued at a fee of one thousand dollars (\$1,000) per year.

(iii) The permit shall be limited to one (1) county within the state where the one-way mileage into that county and within the state is no greater than fifteen (15) miles.

(2)(A)(i) Upon application and the payment of an annual fee of one hundred dollars (\$100), the Director of State Highways and Transportation shall issue a special permit for the movement of a crane which exceeds the length as provided in § 27-35-208, and which is moved on pneumatic tires within a radius of thirty-five (35) miles of a point of origin of the movement, for a period of one (1) year from the date of the issuance of the permit.

(ii) Upon an application containing satisfactory proof that the vehicle is utilized solely for the following movements, the director

may issue a special permit for a maximum load overhang beyond the front of a vehicle, which load exceeds the maximum provided in § 27-35-106, but not exceeding five feet (5'), for a vehicle equipped with pneumatic tires and utilized exclusively for the movements of cranes for a period of not more than one (1) year.

(B)(i) Upon application and the payment of an annual fee, the director shall issue a special permit for the movement of a vehicle of special design utilized exclusively for the drilling of water wells, or for the movement of auger equipment utilized exclusively for loading agricultural aircraft, which exceeds the length as provided in § 27-35-106 or § 27-35-208 and which is moved on pneumatic tires, for a period of one (1) year from the date of issuance of the permit.

(ii)(a) For annual movements within a radius of thirty-five (35) miles of a point of origin of the movements, the annual fee shall be one hundred dollars (\$100).

(b) For annual movements exceeding the thirty-five-mile radius, the annual fee shall be three hundred dollars (\$300).

(C) The permits authorized by this subsection (b) may contain limitations on the speed of operation and the routes of operation as the director may deem necessary for safety to the traveling public.

(3) The permits authorized by this subsection (b) for the overlength vehicle or vehicles shall not affect the other requirements of this section that special permits be obtained for vehicles exceeding other maximum size and weight limitations imposed by law.

(c) The application for any permit shall specifically describe:

(1) The vehicle and the load to be operated or moved;

(2) The origin and destination of the vehicle and load;

(3) The approximate dates within which the operation or movement is to be completed; and

(4) The particular highways for which a permit to operate is requested.

(d) Any agency authorized in this section to issue special permits is authorized:

(1) To issue or withhold the permit at its sole discretion, but its action in withholding a permit must be based upon the condition and state of repair of the highway involved, upon the ability of the highways to carry the overweight or oversized vehicle, or upon the danger to the traveling public from the standpoint of safety;

(2) To establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated;

(3) To otherwise limit or prescribe conditions of operation of the vehicles when necessary to assure against damage to the road foundation, surfaces, or structures; and

(4) To require a bond or other security as may be deemed necessary by the agency to compensate for any injury to any roadway or road structure arising out of the operation under the permit.

(e)(1) A charge of seventeen dollars (\$17.00) shall be made for each special permit.

(2) In addition, for each ton or major fraction thereof to be hauled in excess of the lawful weight and load for that vehicle or combination of vehicles, charges shall be made as follows:

	On Each Ton, Per Ton or Fraction Thereof
Mileage to Be Traveled is:	
Not more than 100 miles .....	\$ 8.00
101 miles to 150 miles, inclusive .....	10.00
151 miles to 200 miles, inclusive .....	12.00
201 miles to 250 miles, inclusive .....	14.00
Over 251 miles .....	16.00

(3) In addition to the fees prescribed in subdivisions (e)(1) and (2) of this section, a fee not to exceed five hundred dollars (\$500) shall be charged for a vehicle, unladen or with load, whose gross weight is one hundred eighty thousand pounds (180,000 lbs.) or greater.

(f)(1) Each permit shall be carried in the vehicle to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit.

(2) No person shall violate any of the terms or conditions of the special permit.

(g) It shall be the duty of the respective agencies authorized in this section:

(1) To issue the permits provided for in this section;

(2) To collect the fees therefor at the time of the issuance of the permits, except that any applicant may furnish a corporate surety bond guaranteeing the payment of fees for permits as may be issued during any period of time, in accordance with the rules and regulations promulgated by the issuing agency; and

(3) To transmit the fees to the Treasurer of State to be credited to the State Highway and Transportation Department Fund.

(h) No fee shall be charged to any federal, state, county, or municipal governmental agency for any permit issued under the provisions of this section when the vehicle involved is public property and the proposed movement is on official business.

(i)(1) The commission is hereby authorized to issue permits for the movement of any overweight mobile construction vehicle or equipment upon highways under the commission's jurisdiction provided that the vehicle or equipment is equipped with pneumatic tires and has been reduced in size and weight until further reduction is impractical.

(2) A charge of seventeen dollars (\$17.00) shall be made for each special permit. In addition, for each ton or major fraction thereof to be hauled in excess of the lawful weight and load for that vehicle or equipment, charges shall be made as follows:



Mileage to Be Traveled is:

	On First 5 Tons, Per Ton or Fraction Thereof	On Next 5 Tons, Per Ton or Frac- tion Thereof	On Any Additional Tonnage, Per Ton or Fraction Thereof
Not more than 100 miles .....	\$1.25	\$2.50	\$3.75
101 miles to 150 miles, inclusive	2.00	3.50	5.00
151 miles to 200 miles, inclusive	2.50	4.50	6.25
201 miles to 250 miles, inclusive	3.25	5.50	7.50
Over 251 miles .....	3.75	6.25	8.75

(j)(1) The commission may issue special permits authorizing the transport of round bales of hay on controlled highways under its jurisdiction provided that the load does not exceed ten feet (10') in width.

(2) The special permits shall be issued without a fee or other charge and shall expire three (3) days after the date of issuance.

(k)(1) The commission is authorized to issue special permits at a charge of one hundred dollars (\$100) for a one-year permit for the movement of cross ties from their first point of processing to the point at which they shall undergo creosote processing by five-axle vehicles registered and licensed pursuant to § 27-14-601(a)(3)(G)(ii) where the loaded weight on any tandem axle on such vehicles is greater than the allowable tandem axle limit of thirty-four thousand pounds (34,000 lbs.) provided that the one-way mileage for such trip is no greater than one hundred (100) miles, that no tandem axle weight exceeds thirty-six thousand five hundred pounds (36,500 lbs.), and that no portion of such trip is on any part of the federal interstate highways.

(2) The commission shall issue no more than five (5) special permits to the same person during the same calendar year.

(l)(1) The commission is hereby authorized to issue special permits in conformance with the provisions of this section for the movement of sealed containerized cargo units upon highways under the commission's jurisdiction subject to the restrictions and conditions deemed appropriate by the commission as contained within this section and the following additional restrictions:

(A) Such containerized cargo units must be part of international trade and be moved on the highways due to importation from or exportation to another country;

(B) A copy of the international bill of lading signed by a customs official or an international bill of lading with equipment interchange and inspection report must be submitted to the commission before a permit may be issued;

(C) The operators of such units shall at all times have in their possession a copy of the documents as described in subdivision (1)(1)(B) of this section;

(D) All vehicles operating under a sealed containerized cargo unit permit shall have a minimum of five (5) full-time load-bearing axles

and shall not exceed twenty thousand pounds (20,000 lbs.) per axle or total gross vehicle weight of ninety thousand pounds (90,000 lbs.);

(E) All vehicles operating under a sealed containerized cargo unit permit must not exceed the legal width, length, or height restrictions as set out in this subchapter; and

(F) The payment of the charges for each special permit as ascertained in the manner set out in subsection (e) of this section.

(2) A special permit may be issued under this subsection only for a single continuous movement or operation to be executed or performed within six (6) consecutive days of the issuance of the permit by one (1) vehicle within one (1) county or across one (1) county line of this state.

(m)(1) The State Highway Commission is authorized to issue special permits to towing businesses for the operation of wreckers or towing vehicles used as emergency vehicles under § 27-36-305(b) when the operation and movement of the vehicle or combination of vehicles exceed the maximum size and weight limitations imposed by law as provided under this subsection.

(2) Notwithstanding any other provision of law to the contrary and upon application and payment of a permit fee not to exceed five hundred dollars (\$500), the commission, through the Director of State Highways and Transportation, may issue a special permit valid for one (1) single trip or for a one-year-period that authorizes a towing business licensed under § 27-50-1203 to move at any time of day or night a vehicle that is disabled or wrecked when that movement:

(A) Results in an oversized, overweight, or both oversized and overweight combination of vehicles; and

(B) Is the initial movement of disabled or wrecked vehicles or combination of vehicles from highways, roads, streets, or highway right-of-ways to:

(i) The nearest point of storage or repair used by the towing or wrecker company;

(ii) The nearest point of storage or repair used by the owner or operator of the vehicle; or

(iii) The nearest authorized repair center for the vehicle.

**History.** Acts 1955, No. 98, § 6; 1955, No. 192, § 1; 1965, No. 436, § 1; 1965 (1st Ex. Sess.), No. 45, § 1; 1971, No. 32, § 1; 1977, No. 457, § 1; 1981, No. 807, § 1; 1985, No. 337, § 1; A.S.A. 1947, § 75-818; Acts 1991, No. 219, § 5; 1991, No. 704, § 1; 1995, No. 873, § 1; 1997, No. 136, § 1; 1997, No. 1026, § 2; 1997, No. 1156, § 1; 1999, No. 1511, § 1; 1999, No. 1571, § 1; 2005, No. 276, § 1; 2005, No. 1412, § 1; 2007, No. 241, § 1; 2007, No. 639,

§§ 1-4; 2009, No. 406, § 2; 2009, No. 567, § 1; 2009, No. 1396, § 1.

**Amendments.** The 2009 amendment by No. 406 inserted (a)(2)(C)(vii), redesignated the subsequent subdivision accordingly, and made a related change.

The 2009 amendment by No. 567 added “or across one (1) county line” in (l)(2), and made minor stylistic changes.

The 2009 amendment by No. 1396 added (m).

## CASE NOTES

**Construction With Other Law.**

Conflict between § 27-35-102 and this section was irreconcilable and resulted in a repeal by implication of § 27-35-102 for purposes of farm tractors traveling on highways at night. Therefore, this section required that a permit be obtained for movement of a field sprayer that exceeded

the maximum width allowed on Arkansas highways without a permit at night, and the trial court erred in granting summary judgment to the owner of the sprayer on an accident victim's negligence claim against the owner and its employee. *Mitchell v. Ramsey*, 2011 Ark. App. 9, — S.W.3d — (2011).

## CHAPTER 36

## LIGHTING REGULATIONS

## SUBCHAPTER.

2. LIGHTING REQUIREMENTS GENERALLY.
3. LIGHTS FOR EMERGENCY VEHICLES.

## SUBCHAPTER 2 — LIGHTING REQUIREMENTS GENERALLY

## SECTION.

27-36-216. Signal lamps and signal devices.

## SECTION.

27-36-223. Motorcycle headlamp modulation systems.

**27-36-211. Use of multiple-beam road lighting equipment.**

## CASE NOTES

**Valid Traffic Stop.**

Because defendant did not dim his headlights at all for oncoming vehicles, an officer had probable cause to believe that a traffic violation had occurred under this section, and the officer's misstatement

about the distance requirement of the statute made no legal difference in the establishment of probable cause for the traffic stop. *Rodriguez v. State*, 2009 Ark. App. 508, 324 S.W.3d 368 (2009).

**27-36-216. Signal lamps and signal devices.**

(a)(1) Any motor vehicle may be equipped, and when required under this subchapter shall be equipped, with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet (100') to the rear in normal sunlight.

(2) They shall be actuated upon application of the service or foot brake, which may, but need not, be incorporated with one (1) or more other rear lamps.

(b)(1) Any motor vehicle may be equipped, and when required under this subchapter shall be equipped, with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left.

(2) The lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and



amber, visible from a distance of not less one hundred feet (100') to the front in normal sunlight.

(3) The lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet (100') to the rear in normal sunlight.

(4) When actuated, these lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made.

(c)(1) Any motor vehicle, or combination of vehicles, eighty inches (80") or more in overall width and manufactured or assembled after July 1, 1959, shall be equipped with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or the left.

(2) The lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred feet (500') to the front in normal sunlight; and

(3) The lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than five hundred feet (500') to the rear in normal sunlight;

(4) When actuated, these lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made.

(d)(1)(A) No person shall operate on the highways any motor vehicle registered in this state and manufactured or assembled after July 1, 1959, unless it is equipped with at least two (2) stop lamps meeting the requirements of this section.

(B) All motorcycles, motor-driven cycles, and truck tractors of whatever date manufactured or assembled and all motor vehicles registered in this state and manufactured or assembled prior to July 1, 1959, operated upon the highways shall be equipped with at least one (1) stop lamp meeting the requirements of this section.

(2)(A) No person shall operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after July 1, 1959, unless it is equipped with electrical turn signals meeting the requirements of this section.

(B) No person shall operate on the highways any motorcycle, motor-driven cycle, or motorized bicycle that was manufactured or assembled after July 27, 2011, unless it is equipped with electrical turn signals that meet the requirements of this section.

(e) No stop lamp or signal lamp shall project a glaring light.

**History.** Acts 1937, No. 300, § 113; Pope's Dig., § 6773; Acts 1959, No. 307, § 48; 1969, No. 299, § 1; A.S.A. 1947, § 75-711; Acts 2011, No. 759, § 3.

**Amendments.** The 2011 amendment rewrote (d)(2)(B).

### CASE NOTES

**Cited:** *Giron v. City of Alexander*, 693 F. Supp. 2d 904 (E.D. Ark. 2010).

#### 27-36-223. Motorcycle headlamp modulation systems.

(a) As used in this section, "motorcycle equipped with a headlamp modulation system" means a motorcycle that is wired to modulate either the upper or lower headlamp beam from its maximum intensity to a lesser intensity.

(b) The operator of a motorcycle equipped with a headlamp modulation system shall use the headlamp modulation system only during daylight hours.

(c) A person who pleads guilty or nolo contendere to or is found guilty of a violation of this section is guilty of a violation.

**History.** Acts 2011, No. 781, § 1.

### SUBCHAPTER 3 — LIGHTS FOR EMERGENCY VEHICLES

#### SECTION.

27-36-304. Fire department vehicles and ambulances.

#### 27-36-304. Fire department vehicles and ambulances.

(a) All state, county, city, and municipal or privately owned fire departments, funeral homes, or ambulance companies shall install, maintain, and exhibit red rotating or flashing emergency lights upon all fire department vehicles, automobiles used by firefighters, and ambulances which are equipped with emergency lighting and operated within Arkansas. Firefighters shall be allowed to use portable dash-mounted red rotating or flashing emergency lights on their privately owned automobiles when responding to a fire or other emergency.

(b) Emergency medical services personnel licensed by the Department of Health may install, maintain, and exhibit red rotating or flashing emergency lights upon a vehicle when responding to an emergency.

**History.** Acts 1969, No. 96, § 2; A.S.A. 1947, § 75-736; Acts 1993, No. 1010, § 1; 1995, No. 123, § 1; 2009, No. 689, § 19.

**Amendments.** The 2009 amendment

substituted "Emergency medical services personnel licensed" for "Emergency medical technicians certified" in (b).

## CHAPTER 37

### EQUIPMENT REGULATIONS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
3. GLASS AND MIRRORS.
7. MANDATORY SEAT BELT USE.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

27-37-103. [Transferred.]

#### 27-37-103. [Transferred.]

**Publisher's Notes.** Section 2 of Acts 2009, No. 103 stated "For administrative convenience, the Arkansas Code Revision Commission shall remove Arkansas Code § 27-37-103 including the amendment

made in this act from Title 27 and recodify the provision under the 'Arkansas Motor Vehicle Commission Act', Arkansas Code § 23-112-101 et seq."

#### SUBCHAPTER 3 — GLASS AND MIRRORS

#### SECTION.

27-37-306. Light transmission levels for the tinting of motor vehicle windows.

#### SECTION.

27-37-307. Window tinting on chauffeur-driven sedans.

#### 27-37-302. Windshields, etc., to be unobstructed.

#### CASE NOTES

#### Construction.

Neither this section nor § 27-37-304 provides citizens with adequate notice that hanging rosary beads or an air fresh-

ener from their rear view mirror violates the law. *Giron v. City of Alexander*, 693 F. Supp. 2d 904 (E.D. Ark. 2010).

#### 27-37-304. Obstruction of interior prohibited.

#### CASE NOTES

#### Construction.

Neither § 27-37-302 nor this section provides citizens with adequate notice that hanging rosary beads or an air fresh-

ener from their rear view mirror violates the law. *Giron v. City of Alexander*, 693 F. Supp. 2d 904 (E.D. Ark. 2010).

#### 27-37-306. Light transmission levels for the tinting of motor vehicle windows.

(a) It shall be unlawful to operate a vehicle on the public highways if after-market tinting material, together with striping material, has been



applied to any windows of the vehicle or if letters or logos larger than one-quarter inch ( $\frac{1}{4}$ " ) have been applied to the windows of the vehicle.

(b) After-market tinting of vehicle windows shall be lawful only as follows:

(1) The glass immediately in front of the operator may have a strip of tinting material applied to the top edge, known in the industry as an "eyebrow", but it may not extend downward more than five inches (5") from the top center of the windshield;

(2) On all 1994 model vehicles and later model vehicles, the side windows and side wings located on the immediate right or left of the driver or to the right or left immediately behind the driver may be covered with an after-market tinting material which results in at least twenty-five percent (25%) net light transmission, except that the side windows immediately behind the driver on any truck, bus, trailer, motor home, or multiple purpose passenger vehicle may be covered with an after-market tinting material which results in at least ten percent (10%) net light transmission; and

(3) On all 1994 model vehicles and later model vehicles, the rearmost window may be covered with an after-market tinting material which results in at least ten percent (10%) net light transmission.

(c) Any vehicle that is operated on Arkansas roads with after-market tinting material on any glass shall have attached to the front glass immediately to the operator's left a label containing the name and phone number of the company installing the tinting material and affirming that all tinting on the vehicle conforms to the requirements of this section.

(d) The provisions of this section shall not apply to motorists operating vehicles registered in other states that have enacted legislation regulating the shading of windshields or windows of motor vehicles who are driving on Arkansas roads and highways.

(e)(1) A motorist shall be exempt from this section if the motorist is diagnosed by a physician as having a disease or disorder, including, but not limited to, albinism or lupus, for which the physician determines it is in the best interest of the motorist to be exempt from the requirements of this section. The motorist shall carry in his or her motor vehicle a physician's certification.

(2) The installation of tinted glass shall be exempt from this section if the tinted glass is installed in the motor vehicle of a person exempted under this subsection, as evidenced by a physician's certification.

(f) The provisions of this section shall not be applicable to vehicles or operators of vehicles used exclusively or primarily for the transportation of dead human bodies.

(g) Any installer of motor vehicle glass tinting material who installs any glass tinting in violation of this section or otherwise violates the provisions of this section or any person operating any motor vehicle with glass tinting or other after-market alteration of the glass in the vehicle which is contrary to the provisions of this section shall be guilty of a Class B misdemeanor.

(h) The provisions of this section shall also apply to:

(1) All 1993 and older model vehicles which have not had after-market tinting material applied in accordance with Acts 1991, No. 563 [repealed], or Acts 1991, No. 1043 [repealed]; and

(2) At such time as the ownership of the same are transferred, all older model vehicles which have had after-market tinting material applied in accordance with Acts 1991, No. 563 [repealed], or Acts 1991, No. 1043 [repealed].

(i) Notwithstanding any other provision of this section or any other law to the contrary, windshields of law enforcement vehicles may be tinted to the extent that the windshield permits at least fifty percent (50%) net light transmission.

(j) This section does not apply to a sedan under § 27-37-307.

**History.** Acts 1993, No. 967, §§ 1, 2; **Amendments.** The 2011 amendment 1997, No. 143, § 1; 2011, No. 1141, § 1. added (j).

### **27-37-307. Window tinting on chauffeur-driven sedans.**

(a)(1) As used in this section, “sedan” means a motor vehicle that:

(A) Has been licensed as an automobile for hire under § 27-14-601(a)(2);

(B) Accommodates a minimum of three (3) rear passengers; and

(C) Is chauffeur-driven.

(2) A sedan is not a taxicab or van.

(b) A sedan that is licensed as an automobile for hire may have the following window tinting:

(1) On the rear passenger doors of the motor vehicle, tinting that results in at least fifteen percent (15%) net light transmission, and on the rear windshield of the motor vehicle, tinting that results in at least ten percent (10%) net light transmission;

(2) A strip of window tinting material applied to the top edge of the front windshield, known in the industry as an “eyebrow”, if the tinting results in at least ten percent (10%) net light transmission; and

(3) Window tinting on the front passenger doors that results in at least twenty-five percent (25%) net light transmission.

(c) A sedan in compliance with this section is exempt from § 27-37-306.

(d)(1) Except as provided under subdivision (d)(2) of this section, a person or entity that owns a sedan with window tinting under this section shall remove the tinting allowed under this section and return it to compliance with § 27-37-306 when the sedan is:

(A) Sold to another person or entity that is not in the business of renting automobiles for hire; and

(B) No longer expected to be used as a sedan for hire.

(2) If the window tinting is not a film but an actual tinting of the glass, subsection (d)(1) of this section does not apply.

**History.** Acts 2011, No. 1141, § 2.

SUBCHAPTER 7 — MANDATORY SEAT BELT USE

SECTION.

27-37-704. [Repealed.]

27-37-705. Reduction of fine.

27-37-707. Traffic violation report and

driver's license suspension.

**Effective Dates.** Acts 2009, No. 308, § 6: June 30, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act will improve the safety and health of Arkansans; that the changes to the law will qualify the state to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs; that the deadline for the

state to have a primary seatbelt law in place that is effective and enforceable to qualify for the federal grant program is June 30, 2009; and that this act is immediately necessary to secure substantial federal funding and make the roads and highways safer in the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on June 30, 2009."

27-37-704. [Repealed.]

**Publisher's Notes.** This section, concerning inspection for compliance, was repealed by Acts 2009, No. 308, § 2. The section was derived from Acts 1991, No. 562, § 4.

**A.C.R.C. Notes.** Acts 2009, No. 308, § 1, provided: "Legislative findings. The General Assembly finds:

"(1) In 2007, five hundred twenty-five (255) people died while riding in passenger vehicles in Arkansas and sixty-five percent (65%) of those who died were not wearing a seat belt;

"(2) In 2007, sixty-one (61) people died after being ejected from their vehicles during a rollover crash because they were not wearing their seat belts; and

"(3) By adopting a primary seat belt

law, Arkansas can expect an increase in the use of seat belts by motorists of approximately twelve percent (12%); and

"(4) Adopting a primary seat belt law could save as many as forty-seven (47) lives each year, prevent approximately five hundred four (504) serious injuries each year, and save an estimated one hundred four million dollars (\$104,000,000) in economic costs each year; and

"(5) The adoption of the primary seat belt law will entitle the State of Arkansas to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs."

27-37-705. Reduction of fine.

(a) When a motor vehicle operator is stopped by a law enforcement officer and the law enforcement officer notes that the provisions of this subchapter have not been violated, any fine levied for a moving traffic violation against the motor vehicle operator as a result of being stopped shall be reduced by ten dollars (\$10.00) as an incentive to comply with this subchapter.

(b) Subsection (a) of this section shall not apply to fines levied for traffic offenses classified as misdemeanors.



**History.** Acts 1991, No. 562, § 8; 1995, No. 1118, § 2; 2003, No. 1765, § 36; 2009, No. 633, § 22.

**Amendments.** The 2009 amendment

inserted (b), redesignated the remaining text accordingly, and made a minor stylistic change.

## 27-37-707. Traffic violation report and driver's license suspension.

The Office of Driver Services shall not:

(1) Include in the traffic violation report of any person any conviction arising out of a violation of this subchapter;

(2) Use or accumulate a violation of this subchapter to suspend or revoke the driver's license of any person as an habitual violator of traffic laws; or

(3) Use a violation of this subchapter in any other way under the administrative authority of the office to suspend or revoke a driver's license.

**History.** Acts 1995, No. 1118, § 3; 2009, No. 308, § 3.

**A.C.R.C. Notes.** Acts 2009, No. 308, § 1, provided: "Legislative findings. The General Assembly finds:

"(1) In 2007, five hundred twenty-five (525) people died while riding in passenger vehicles in Arkansas and sixty-five percent (65%) of those who died were not wearing a seat belt;

"(2) In 2007, sixty-one (61) people died after being ejected from their vehicles during a rollover crash because they were not wearing their seat belts; and

"(3) By adopting a primary seat belt law, Arkansas can expect an increase in the use of seat belts by motorists of approximately twelve percent (12%); and

"(4) Adopting a primary seat belt law could save as many as forty-seven (47) lives each year, prevent approximately five hundred four (504) serious injuries each year, and save an estimated one hundred four million dollars (\$104,000,000) in economic costs each year; and

"(5) The adoption of the primary seat belt law will entitle the State of Arkansas to receive approximately nine million five hundred thousand dollars (\$9,500,000) in federal grant funds to implement highway safety programs."

**Amendments.** The 2009 amendment inserted (2) and (3), redesignated the remaining text accordingly, and made related changes.

















